

COMMENTS RECEIVED ON THE DRAFT EIR AND RESPONSES

All comments received on the Draft EIR have been coded to facilitate identification and tracking. The City of Carlsbad received ten comment letters on the Draft EIR during the public review period that began on July 19, 2012 and closed on September 12, 2012. The comment letters on the Draft EIR are listed in Table 1 below. Each of the comment letters were reviewed and divided into individual comments, with each comment containing a single theme, issue, or concern. Where a letter comments on more than one issue, each individual comment issue is numbered (A-1, for example) and a specific response is included for each issue.

Table 1 Comment Letters Received on Draft EIR

	Commentor	Date
A	Scott Morgan, Director, State Clearinghouse and Planning Unit	September 5, 2012
B	Dave Singleton, Program Analyst, Native American Heritage Commission	July 23, 2012
C	Jacob Armstrong, Chief, Development Review Branch, Department of Transportation	August 13, 2012
D	Rafiq Ahmed, Project Manager, Brownfields and Environmental Restoration Program, Department of Toxic Substances Control	August 24, 2012
E	Karen A. Goebel, Assistant Field Supervisor, U.S. Fish and Wildlife Service, and Stephen M. Juarez, Environmental Program Manager, California Department of Fish & Game	September 12, 2012
F	Don Mitchell, Senior Vice President, McMillin Land Development	July 24, 2012
G	James W. Royle, Jr., Chairperson, Environmental Review Committee, San Diego County Archaeological Society	August 4, 2012
H	Diane Nygaard, Preserve Calavera	September 4, 2012
I	Rose Duro, Rincon Cultural Committee Chair, Rincon Band of Luiseño Indians	September 4, 2012
J	Merri Lopez-Keifer, Tribal Legal Counsel, San Luis Rey Band of Mission Indians	September 13, 2012

RESPONSES

LETTER A. STATE CLEARINGHOUSE

- A-1. This comment letter states that the City of Carlsbad has complied with the State Clearinghouse requirements for the review of draft environmental documents under the California Environmental Quality Act (CEQA). It should be noted that the public review period for the Draft Program EIR (EIR) was extended from September 4, 2012 until September 12, 2012. Four comment letters were received from State agencies: the Native American Heritage Commission (letter B), the Department of Transportation (letter C), the Department of Toxic Substances Control (letter C), and a letter that contained the combined comments from the U.S. Fish and Wildlife Service and the California Department of Fish & Game (letter D).

COMMENTS



EDMUND G. BROWN JR.
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT



KEN ALEX
DIRECTOR

September 5, 2012

Barbara Kennedy
City of Carlsbad
1635 Faraday Avenue
Carlsbad, CA 92008

Subject: Sewer Master Plan and CMWD Water and Recycled Water Master Plans Update
SCH#: 2012021006

Dear Barbara Kennedy:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on September 4, 2012, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

A-1.

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

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COMMENTS

**Document Details Report
State Clearinghouse Data Base**

SCH# 2012021006
Project Title Sewer Master Plan and CMWD Water and Recycled Water Master Plans Update
Lead Agency Carlsbad, City of

Type EIR Draft EIR
Description The proposed project is the update of the City of Carlsbad's Sewer Master Plan, and the Carlsbad Municipal Water District's (CMWD) Water and Recycled Water Master Plans. The Master Plans identify the Capital Improvement Programs (CIP) required to meet current and future demand through buildout of the service areas in 2035. The PEIR will address the potential physical environmental impacts that would result from the implementation of the proposed CIP projects.

Lead Agency Contact

Name Barbara Kennedy
Agency City of Carlsbad
Phone 760 602 4626 **Fax**
email barbara.kennedy@carlsbadca.gov
Address 1635 Faraday Avenue
City Carlsbad **State** CA **Zip** 92008

Project Location

County San Diego
City Carlsbad
Region
Lat / Long 33° 8' 18" N / 117° 13' 37" W
Cross Streets I-5 and Palomar Airport Road
Parcel No.
Township **Range** **Section** **Base**

Proximity to:

Highways Hwy 78, I-5
Airports McClellan-Palomar, Oceanside
Railways AT&SF and Coaster
Waterways Buena Vista Creek, Agua Hedionda Creek, San Marcos
Schools Carlsbad USD
Land Use

Project Issues Aesthetic/Visual; Air Quality; Archaeologic-Historic; Biological Resources; Coastal Zone; Drainage/Absorption; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Noise; Soil Erosion/Compaction/Grading; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Wetland/Riparian; Growth Inducing; Landuse; Cumulative Effects

Reviewing Agencies Resources Agency; California Coastal Commission; Department of Fish and Game, Region 5; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Caltrans, District 11; CA Department of Public Health; State Water Resources Control Board, Division of Water Quality; Regional Water Quality Control Board, Region 9; Department of Toxic Substances Control; Native American Heritage Commission; State Lands Commission

Date Received 07/19/2012 **Start of Review** 07/19/2012 **End of Review** 09/04/2012

RESPONSES

LETTER B. NATIVE AMERICAN HERITAGE COMMISSION (NAHC)

- B-1. The first comment introduces the letter and states the role of the Native American Heritage Commission (NAHC) as a protector of California's Native American Cultural Resources. The comment describes the definition of 'significant effect' related to archaeological resources per CEQA guidelines; recommends an NAHC Sacred Lands File Search because the Area of Potential Effect for the proposed capital improvement projects (CIP) are known to be very cultural sensitive; and states that Sacred Sites, as defined by the California Public Resources Code, and items in the NAHC Sacred Lands Inventory are confidential. Section 4.4, Cultural Resources, of the EIR provides details on the NAHC SLF search conducted for the proposed project. The results of the SLF search conducted as part of the Draft EIR indicated that Native American cultural resources are known within the areas proposed for the CIP projects, consistent with the results reported in the comment.

COMMENTS

STATE OF CALIFORNIA

Edmund G. Brown, Jr., Governor

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
 SACRAMENTO, CA 95814
 (916) 653-6251
 Fax (916) 657-5390
 Web Site www.nahc.ca.gov
ds_nahc@pacbell.net



July 23, 2012

Ms. Barbara Kennedy, Project Planner

City of Carlsbad

1635 Faraday Avenue
 Carlsbad, CA 92008

Re: SCH#2012021006; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for the City of Carlsbad Sewer Master Plan and CMWD Water & Recycled Water Master Plans Update; located in the City of Carlsbad; San Diego County, California.

Dear Ms. Kennedy:

The Native American Heritage Commission (NAHC), the State of California 'Trustee Agency' for the protection and preservation of Native American cultural resources pursuant to California Public Resources Code §21070 and affirmed by the Third Appellate Court in the case of EPIC v. Johnson (1985: 170 Cal App. 3rd 604).

This letter includes state and federal statutes relating to Native American historic properties of religious and cultural significance to American Indian tribes and interested Native American individuals as 'consulting parties' under both state and federal law. State law also addresses the freedom of Native American Religious Expression in Public Resources Code §5097.9

B-1.

The California Environmental Quality Act (CEQA – CA Public Resources Code 21000-21177, amendments effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the CEQA Guidelines defines a significant impact on the environment as 'a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance.' In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE), and if so, to mitigate that effect. The NAHC recommends that the lead agency request that the NAHC do a Sacred Lands File search as part of the careful planning for the proposed project. The APEs in this project, based on the proposed locations, are known to the NAHC to be very culturally sensitive.

The NAHC "Sacred Sites," as defined by the Native American Heritage Commission and the California Legislature in California Public Resources Code §§5097.94(a) and 5097.96. Items in the NAHC Sacred Lands Inventory are confidential and exempt from the Public Records Act pursuant to California Government Code §6254 (r).

RESPONSES

- B-2. This comment recommends consultation with an attached list of Native American contacts. As discussed in Section 4.4, Cultural Resources, of the Draft EIR on page 4.4-6, Atkins communicated with Mr. Dave Singleton of the NAHC in January and February, 2012. Additionally, letters to each of the tribal contacts identified by NAHC in its February 15, 2012 letter, submitted during the Notice of Preparation (NOP) comment period, were sent by Atkins on February 24, 2012. The letters sent to the tribal contacts described the proposed project that contained maps of the proposed CIP locations, and requested information about the SLF-listed resources, as well as information about any resources not listed in the SLF for inclusion in this report.

One written response was received from the Pala Band of Mission Indians, which indicated that the proposed project was located on lands considered part of their traditional use area and that they would like to be advised of project progress and be added to the receiving list for project updates, reports of investigations, and/or any documentation generated about new or previously recorded sites. Carlsbad notified the Pala Band of Mission Indians of the availability of Draft EIR for their review and comment. To date, no response has been received.

- B-3. This comment recommends consultation with tribes and interested Native American consulting parties, in compliance with NEPA and Section 106 of the National Historic Preservation Act (NHPA). The proposed project does not involve a federal action or federal agency and is therefore not subject to the requirements of NEPA or Section 106 of the NHPA. Any future CIP projects involving a federal action or requiring the involvement of a federal agency would undergo consultation with tribes and interested Native Americans in compliance with NEPA and Section 106 of the NHPA. As discussed in response to comment B-2, letters to each of the tribal contacts identified by NAHC during the NOP comment period were sent by Atkins on February 24, 2012. Refer to response to comment B-2 for additional information.
- B-4. This comment describes the requirements for confidentiality related to historic properties of religious and cultural significance. The Draft EIR recognizes these requirements; therefore, sensitive information related to the location of cultural resources was included only in a confidential appendix (Appendix D2).
- B-5. This comment describes regulations that outline procedures to be followed in the event of an accidental discovery of human remains. As discussed in Section 4.4 of the Draft EIR on pages 4.4-22 and 4.4-23, the procedures detailed in PRC Section 5097.98 and California State Health and Safety Code Section 7050.5 would be implemented in the event of unintentional disturbance of human remains.
- B-6. This comment is related to consultation with Native American representatives. Tribal contacts were consulted as part of the proposed project. Refer to response to comment B-2 for additional information.

COMMENTS

- B-2. Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries of cultural resources or burial sites once a project is underway. Culturally affiliated tribes and individuals may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We strongly urge that you make contact with the list of Native American Contacts on the attached list of Native American contacts, to see if your proposed project might impact Native American cultural resources and to obtain their recommendations concerning the proposed project. Pursuant to CA Public Resources Code § 5097.95, the NAHC requests cooperation from other public agencies in order that the Native American consulting parties be provided pertinent project information. Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e). Pursuant to CA Public Resources Code §5097.95, the NAHC requests that pertinent project information be provided consulting tribal parties. The NAHC recommends *avoidance* as defined by CEQA Guidelines §15370(a) to pursuing a project that would damage or destroy Native American cultural resources and Section 2183.2 that requires documentation, data recovery of cultural resources.
- B-3. Furthermore, the NAHC if the proposed project is under the jurisdiction of the statutes and regulations of the National Environmental Policy Act (e.g. NEPA; 42 U.S.C. 4321-43351). Consultation with tribes and interested Native American consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 *et seq*), 36 CFR Part 800.3 (f) (2) & .5, the President's Council on Environmental Quality (CSQ, 42 U.S.C 4371 *et seq.* and NAGPRA (25 U.S.C. 3001-3013) as appropriate. The 1992 *Secretary of the Interiors Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including cultural landscapes. Also, federal Executive Orders Nos. 11593 (preservation of cultural environment), 13175 (coordination & consultation) and 13007 (Sacred Sites) are helpful, supportive guides for Section 106 consultation. The aforementioned Secretary of the Interior's *Standards* include recommendations for all 'lead agencies' to consider the historic context of proposed projects and to "research" the cultural landscape that might include the 'area of potential effect.'
- B-4. Confidentiality of "historic properties of religious and cultural significance" should also be considered as protected by California Government Code §6254(r) and may also be protected under Section 304 of the NHPA or at the Secretary of the Interior discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C., 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APEs and possibility threatened by proposed project activity.
- B-5. Furthermore, Public Resources Code Section 5097.98, California Government Code §27491 and Health & Safety Code Section 7050.5 provide for provisions for inadvertent discovery of human remains mandate the processes to be followed in the event of a discovery of human remains in a project location other than a 'dedicated cemetery'.
- B-6. To be effective, consultation on specific projects must be the result of an ongoing relationship between Native American tribes and lead agencies, project proponents and their contractors, in the opinion of the NAHC. Regarding tribal consultation, a relationship built around regular meetings and informal involvement with local tribes will lead to more qualitative consultation tribal input on specific projects.

RESPONSES

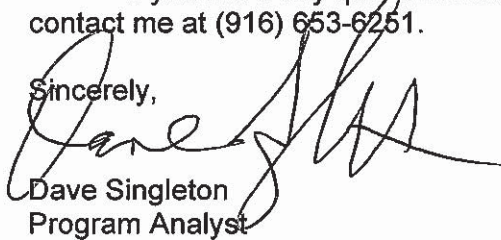
- B-7. This comment describes the CEQA recommendation to avoid Native American cultural sites and/or Native American burial sites. Avoidance has already been incorporated in the project by proposing most new CIP projects in previously disturbed areas, such as within existing roadways. Additionally, mitigation measure Cul-1 in Section 4.4, Cultural Resources, outlines the procedure for minimizing potential impacts from CIP projects proposed in close proximity to a known cultural resource or projects that would result in ground-disturbing activities in a previously undisturbed area. If any resources are uncovered that are found to be historical resources pursuant to CEQA, the City or CMWD would be responsible for implementing the methods for eliminating or substantially reducing impacts on resources as recommended by the archeologist and/or Native American Tribe. Item 3(a) within mitigation measure Cul-1 recommends avoidance.

COMMENTS

B-7. Finally, when Native American cultural sites and/or Native American burial sites are prevalent within the project site, the NAHC recommends 'avoidance' of the site as referenced by CEQA Guidelines Section 15370(a).

If you have any questions about this response to your request, please do not hesitate to contact me at (916) 653-6251.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Singleton", is written over the typed name and title.

Dave Singleton
Program Analyst

Cc: State Clearinghouse

Attachment: Native American Contact List

COMMENTS

Native American Contact

San Diego County
July 23, 2012

Barona Group of the Capitan Grande
Edwin Romero, Chairperson
1095 Barona Road Diegueno
Lakeside , CA 92040
sue@barona-nsn.gov
(619) 443-6612
619-443-0681

Sycuan Band of the Kumeyaay Nation
Danny Tucker, Chairperson
5459 Sycuan Road Diegueno/Kumeyaay
El Cajon , CA 92019
ssilva@sycuan-nsn.gov
619 445-2613
619 445-1927 Fax

La Posta Band of Mission Indians
Gwendolyn Parada, Chairperson
PO Box 1120 Diegueno/Kumeyaay
Boulevard , CA 91905
gparada@lapostacasino.
(619) 478-2113
619-478-2125

Viejas Band of Kumeyaay Indians
Anthony R. Pico, Chairperson
PO Box 908 Diegueno/Kumeyaay
Alpine , CA 91903
jrothauf@viejas-nsn.gov
(619) 445-3810
(619) 445-5337 Fax

Manzanita Band of Kumeyaay Nation
Leroy J. Elliott, Chairperson
PO Box 1302 Kumeyaay
Boulevard , CA 91905
ljbirdsinger@aol.com
(619) 766-4930
(619) 766-4957 Fax

Kumeyaay Cultural Historic Committee
Ron Christman
56 Viejas Grade Road Diegueno/Kumeyaay
Alpine , CA 92001
(619) 445-0385

San Pasqual Band of Mission Indians
Allen E. Lawson, Chairperson
PO Box 365 Diegueno
Valley Center, CA 92082
allenl@sanpasqualband.com
(760) 749-3200
(760) 749-3876 Fax

Jamul Indian Village
Chairperson
P.O. Box 612 Diegueno/Kumeyaay
Jamul , CA 91935
jamulrez@sctdv.net
(619) 669-4785
(619) 669-48178 - Fax

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2012021006; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for the City of Carlsbad Sewer Master Plan and CMWD Water and Recycled Water Master Plans located in the City of Carlsbad; San Diego County, California.

COMMENTS

Mesa Grande Band of Mission Indians
Mark Romero, Chairperson
P.O. Box 270 Diegueno
Santa Ysabel, CA 92070
mesagrandeband@msn.com
(760) 782-3818
(760) 782-9092 Fax

Kwaaymii Laguna Band of Mission Indians
Carmen Lucas
P.O. Box 775 Diegueno -
Pine Valley , CA 91962
(619) 709-4207

Pauma & Yuima Reservation
Randall Majel, Chairperson
P.O. Box 369 Luiseno
Pauma Valley CA 92061
paumareservation@aol.com
(760) 742-1289
(760) 742-3422 Fax

Kumeyaay Cultural Repatriation Committee
Steve Banegas, Spokesperson
1095 Barona Road Diegueno/Kumeyaay
Lakeside , CA 92040
sbenegas50@gmail.com
(619) 742-5587
(619) 443-0681 FAX

Pechanga Band of Mission Indians
Paul Macarro, Cultural Resources Manager
P.O. Box 1477 Luiseno
Temecula , CA 92593
(951) 770-8100
pmacarro@pechanga-nsn.
gov
(951) 506-9491 Fax

Pauma Valley Band of Luiseño Indians
Bennae Calac, Tribal Council Member
P.O. Box 369 Luiseno
Pauma Valley CA 92061
bennaecalac@aol.com
(760) 617-2872
(760) 742-3422 - FAX

Rincon Band of Mission Indians
Vincent Whipple, Tribal Historic Preationv. Officer
P.O. Box 68 Luiseno
Valley Center, CA 92082
twolfe@rincontri.org
(760) 297-2635
(760) 297-2639 Fax

Rincon Band of Mission Indians
Bo Mazzetti, Chairperson
P.O. Box 68 Luiseno
Valley Center, CA 92082
bomazzetti@aol.com
(760) 749-1051
(760) 749-8901 Fax

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2012021006; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for the City of Carlsbad Sewer Master Plan and CMWD Water and Recycled Water Master Plans located in the City of Carlsbad; San Diego County, California.

RESPONSES

LETTER C. DEPARTMENT OF TRANSPORTATION (CALTRANS)

- C-1. This comment states that any utility crossings of freeways will need an encroachment permit from Caltrans and provides sources of information regarding encroachment permits. Table 1-1 in the Draft EIR, Federal, State, or Local Permits and Approvals, in Chapter 1, Introduction, includes encroachment permits from Caltrans in the list of applicable permits for the proposed project. An encroachment permit would be required for any CIP projects that cross state highways.

COMMENTS

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION

DISTRICT 11, DIVISION OF PLANNING

4050 TAYLOR ST, M.S. 240

SAN DIEGO, CA 92110

PHONE (619) 688-6960

FAX (619) 688-4299

TTY 711

www.dot.ca.gov

*Flex your power!
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August 13, 2012

11-SD-5

PM 44.07-50.68

Sewer, Water, and Recycled Water MP

DEIR / SCH #2012021006

Ms. Barbara Kennedy
City of Carlsbad
1635 Faraday Avenue
Carlsbad, CA 92008

Dear Ms. Kennedy:

The California Department of Transportation (Caltrans) received the Draft Environmental Impact Report (DEIR) for the proposed Sewer, Water, and Recycled Water Master Plan Updates (SCH #2012021006) for the City of Carlsbad. Caltrans has the following comments:

C-1. Any utility crossings of freeways will need an encroachment permit from Caltrans. Please refer to Caltrans Encroachment Permits Manual (http://www.dot.ca.gov/hq/traffops/developserv/permits/encroachment_permits_manual/index.html) for guidance on utility encroachment.

Additional information regarding encroachment permits may be obtained by contacting the Caltrans Permits Office at (619) 688-6158. Early coordination with Caltrans is strongly advised for all encroachment permits.

If you have any questions, please contact Leila Ibrahim, Development Review Branch, at (619) 688-6802.

Sincerely,

JACOB ARMSTRONG, Chief
Development Review Branch

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COMMENTS



Department of Toxic Substances Control



Matthew Rodriguez
Secretary for
Environmental Protection

Deborah O. Raphael, Director
5796 Corporate Avenue
Cypress, California 90630

Edmund G. Brown Jr.
Governor

August 24, 2012

Ms. Barbara Kennedy
City of Carlsbad
1635 Faraday Avenue
Carlsbad, California 92008

NOTICE OF AVAILABILITY OF A DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT FOR THE CITY OF CARLSBAD'S SEWER MASTER PLAN AND CARLSBAD MUNICIPAL WATER DISTRICT (CMWD)'S WATER AND RECYCLED WATER MASTER PLANS UPDATE PROJECT, (SCH#2012021006), SAN DIEGO COUNTY

Dear Ms. Kennedy:

The Department of Toxic Substances Control (DTSC) has received your submitted Draft Program Environmental Impact Report (EIR) for the above-mentioned project. The following project description is stated in your document:

"The City of Carlsbad (city) and CMWD propose to implement the Sewer, Water and Recycled Water Master Plans, which update the existing master plans. The Sewer, Water, and Recycled Water Master Plans represent comprehensive programs for the phased and orderly development of sewer, water, and recycled water utilities for the future needs of the service areas. The sewer, water, and recycled water service areas encompass Carlsbad and portions of Oceanside, San Marcos, and Vista. The project area consists of the service areas of the CMWD for water and recycled water, and Carlsbad's wastewater (sewer) service area. The project area is generally located in the northern part of San Diego County within the city of Carlsbad. Carlsbad is bordered by the Pacific Ocean to the west, the Oceanside to the north, Vista and San Marcos to the east, and Encinitas to the south. The City of Carlsbad is developed with a variety of land uses. The primary land use is residential, with local and regional commercial centers and several large industrial business parks. There are two former waste disposal facilities located in Carlsbad. The first site is adjacent to the south side of McClellan-Palomar Airport. This site was used for disposal of household waste between 1962 and 1975. No hazardous materials have been identified at the site, and it was closed and capped by the County of San Diego. The second site is located in the far northeastern corner of Carlsbad, and was also used for the burning of municipal waste. The site has not been operational since 1961 and has since been redeveloped. Two existing sewer facilities are currently listed as hazardous materials sites in the GeoTracker database: Buena Vista pump station and Foxes Landing lift station."

RESPONSES

LETTER D. DEPARTMENT OF TOXIC SUBSTANCES CONTROL (DTSC)

- D-1. This comment acknowledges that some of the DTSC's previous comments on the NOP for the project have been addressed in the Draft EIR, and requests that all comments be addressed in the Final EIR. The letter does not specify which comments were not addressed in the Draft EIR. The commenter's letter on the NOP, dated February 27, 2012, (included in Appendix A of the Draft EIR) requested that the EIR evaluate whether conditions of concern have been identified in the project area in regulatory agency databases; identify mechanisms to initiate investigations into potential contamination; and incorporate suggestions for environmental investigations, demolition, construction, soil excavation, and previous agricultural sites. The comment letter also included a list of applicable regulations for the generation of hazardous wastes and provided a reference for additional information regarding cleanup oversight.

A records search was conducted for the proposed project in February 2012, as described in Section 4.8, Hazards and Hazardous Materials, and included the GeoTracker and EnviroStor databases, as recommended by the comment. Specific recommendations for site-specific hazards are not appropriate at the program level because project designs and locations are not known with certainty. As discussed on pages 4.8-10 and 4.8-11, the City and CMWD have committed to conducting a site-specific hazardous materials record search for each CIP project that involves ground-disturbing activities and, if required, a site assessment during final design of individual CIP project components. If potential hazards are identified, construction would be required to comply with all applicable federal, state, and local laws related to the remediation, handling, and disposal of hazardous materials. Therefore, applicable comments from the commenter's letter on the NOP have been incorporated into the Draft EIR.

- D-2. This comment described services offered by the DTSC and provides references for additional information. This comment does not address the adequacy or accuracy of information provided in the Draft EIR. No response is necessary.

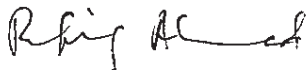
COMMENTS

Based on the review of the submitted document DTSC has the following comments:

- | | |
|------|--|
| D-1. | 1) DTSC provided comments on the project Notice of Preparation (NOP) on February 27, 2012; some of those comments have been addressed in the submitted Draft Program EIR. Please ensure that all those comments will be addressed in the Final Environmental Impact Report of the Project. |
| D-2. | 2) DTSC can provide cleanup oversight through an Environmental Oversight Agreement (EOA) for government agencies that are not responsible parties, or a Voluntary Cleanup Agreement (VCA) for private parties. For additional information on the EOA or VCA, please see www.dtsc.ca.gov/SiteCleanup/Brownfields or contact Ms. Maryam Tasnif-Abbasi, DTSC's Voluntary Cleanup Coordinator, at (714) 484-5489. |

If you have any questions regarding this letter, please contact Rafiq Ahmed, Project Manager, at rahmed@dtsc.ca.gov, or by phone at (714) 484-5491.

Sincerely,



Rafiq Ahmed
Project Manager
Brownfields and Environmental Restoration Program

cc: Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044
state.clearinghouse@opr.ca.gov.

CEQA Tracking Center
Department of Toxic Substances Control
Office of Environmental Planning and Analysis
P.O. Box 806
Sacramento, California 95812
Attn: Nancy Ritter
nritter@dtsc.ca.gov

CEQA # 3618

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COMMENTS



U. S. Fish and Wildlife Service
 Carlsbad Fish and Wildlife Office
 6010 Hidden Valley Road, Suite 101
 Carlsbad, California 92011
 760-431-9440
 FAX 760-431-9618



California Department of Fish and Game
 South Coast Region
 3883 Ruffin Road
 San Diego, California 92123
 858-467-4201
 FAX 858-467-4239

In Reply Refer To:
 FWS/CDFG-12B0102-12TA0538

Ms. Barbara Kennedy, Associate Planner
 City of Carlsbad Planning Division
 1635 Faraday Avenue
 Carlsbad, California 92008

Subject: Comments on the Draft Programmatic Environmental Impact Report for the Sewer, Water, and Recycled Water Master Plan Updates, City of Carlsbad (SCH# 2012021006)

Dear Ms. Kennedy:

The California Department of Fish and Game (Department) and U.S. Fish and Wildlife Service (Service), collectively referred to as the Wildlife Agencies, have reviewed the above-referenced draft Programmatic Environmental Impact Report (PEIR) for the Sewer, Water, and Recycled Water Master Plan Updates, in the city of Carlsbad (City), dated July 19, 2012.

The primary concern and mandate of the Service is the protection of public fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Federal Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) including habitat conservation plans developed under section 10(a)(1) of the Act, such as the City's Habitat Management Plan (HMP). The Department is a Trustee Agency and a Responsible Agency pursuant to the California Environmental Quality Act (CEQA; Sections 15386 and 15381, respectively) and is responsible for ensuring appropriate conservation of the State's biological resources, including rare, threatened, and endangered plant and animal species, pursuant to the California Endangered Species Act and other sections of the Fish and Game Code. The Department also administers the Natural Community Conservation Planning (NCCP) program, and the Streambed Alteration Agreement program. The City's HMP was issued pursuant to the Act and NCCP program.

The proposed project is the update of the city of Carlsbad's Sewer Master Plan and the Carlsbad Municipal Water District's (CMWD) Water and Recycled Water Master Plans. The Master Plans identify the Capital Improvement Programs (CIP) required to meet current and future demand through buildout of the service areas in 2035. The draft PEIR addresses the potential physical environmental impacts that would result from the implementation of the proposed CIP projects.

RESPONSES

LETTER E. USFWS / CDFG

- E-1. This comment suggests that mitigation measures Bio-1E through Bio-1I, which address indirect impacts to biological resources, should also apply to projects with direct impacts. The discussion of mitigation for direct impacts to special status species begins on page 4.3-34 in Section 4.3, Biological Resources, of the Draft EIR. The discussion states that mitigation measures Bio-1E through Bio-1I would be required to further reduce potential significant indirect impacts associated with the CIP projects that also would result in direct impacts. Therefore, the measures do in fact address both direct and indirect impacts to biological resources.
- E-2. This comment recommends additional measures for projects that would require trenchless construction within sensitive resources. These measures are not required to reduce the project's potential impacts to sensitive biological resources to a less than significant level; however, the recommended measures have been added to the Final EIR as a project design feature for all projects requiring trenchless construction. Section 2.6.2 of the Draft EIR, Project Design Features, has been revised as follows:

Hydrology and Water Quality

The following measures would be implemented into the construction and operation of CIP projects to minimize potential effects to hydrology and water quality:

- *For all trenchless construction activities, the City or CMWD will implement the following methods recommended by the CDFG and USFWS to prevent water pollution:*
 - *Implementation of the following techniques to reduce potential for hydrofracture and inadvertent returns that could pollute nearby water:*
 - *Sufficient earth cover will be used to increase resistance to hydrofracture.*
 - *An adequately dense drilling fluid will be used to avoid travel of drilling fluid in porous sands.*
 - *The bore will be conducted in a manner that avoids collapse.*
 - *Borehole pressure will be maintained at levels low enough to avoid hydro fracture.*
 - *Reaming and pullback rates will be maintained at rates slow enough to avoid over-pressurization of the bore.*
 - *The surface above the vicinity of the drill head will be visually monitored for surface evidence of hydrofracture.*
 - *Drilling methods will be modified to suit site conditions such that hydrofracture does not occur.*
 - *Hydrofractures will be cleaned immediately after they occur. Necessary response equipment will be readily accessible and in good working order.*
 - *Hydrofracture reporting and cleanup information will be disseminated to construction crews during regular safety meetings. All field personnel will understand their responsibility for timely reporting of hydrofractures.*

COMMENTS

Ms. Barbara Kennedy (FWS/CDFG-12B0102-12TA0538)

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The proposed CIP for the Sewer Master Plan includes the installation of new sewer pipelines (11 CIP projects), rehabilitation of existing sewer pipelines (28 CIP projects), lift station removals (2 CIP projects), lift station repairs and improvements (3 CIP projects), collection system capacity projects (2 CIP projects), interceptor capacity projects (6 CIP projects), and 2 CIP projects for the Encina Water Pollution Control Facility.

The proposed Water Master Plan Update includes a capacity evaluation to meet future demands and recommended CIP projects for continued reliable water service through buildout. Proposed CIP projects include water supply projects (2 CIP projects), water pipeline installations and improvements (28 CIP projects), storage facility repairs and improvements (7 CIP projects), pump station improvements (5 CIP projects), groundwater projects (2 CIP projects), and 8 CIP projects for miscellaneous repairs and improvements.

The proposed Recycled Water Master Plan Update guides the continued development of the CMWD recycled water system. Proposed CIP projects include the expansion and installation of new recycled water pipeline segments (69 CIP projects), storage facility improvements (3 CIP projects), and 2 CIP projects that would increase the capacity of the Carlsbad Water Recycling Facility.

The Wildlife Agencies submitted comments on the Notice of Preparation for the PEIR in our letter dated March 9, 2012 (FWS/CDFG-12B0102-12TA0207). We appreciate the City addressing our comments and incorporating our recommendations into the PEIR. We submit these additional comments and recommendations to assist the City in its analysis of consistency with the City's HMP, as well as direct and indirect project impacts to biological resources for the final PEIR.

- | | |
|------|---|
| E-1. | <ol style="list-style-type: none"> 1. The draft PEIR includes mitigation measures to avoid, minimize, and mitigate direct and indirect impacts to sensitive resources. We agree that mitigation measures Bio-1A through Bio-1D are appropriate for projects with potential direct impacts to sensitive resources. However, mitigation measures Bio-1E through Bio-1I appear to only apply to projects with indirect impacts. Because indirect impacts may also occur with the projects described as having the potential for direct impacts, we recommend that mitigation measures Bio-1E through Bio-1I be stated as general measures applicable to all projects. |
| E-2. | <ol style="list-style-type: none"> 2. We recommend that the following measures be included for projects where trenchless pipeline installation is proposed within sensitive resources. <ol style="list-style-type: none"> a. Techniques to reduce potential for hydrofracture and inadvertent returns that could pollute nearby water (e.g., streams or lagoons): <ol style="list-style-type: none"> i. Sufficient earth cover should be used to increase resistance to hydrofracture. |

RESPONSES

- E-3. This comment recommends that pipeline projects be placed within existing roadways when possible. The City and CMWD have located the proposed CIP projects within existing roadways wherever possible. Table 4.3-2 of the EIR, CIP Projects with Effects Found Not to be Significant to Biological Resources, lists the CIP projects that have been specifically sited and proposed within existing roadways or other developed areas so that impacts to biological resources will be avoided.

As discussed throughout Section 4.3 and proposed within mitigation measures Bio-1B and Bio-2A, impacts to sensitive habitat areas shall be avoided to the maximum extent practicable through project-level siting during CIP project design and trenchless pipeline installation methods (e.g., jack and bore, horizontal directional drilling) during CIP project construction. Further, and as proposed within mitigation measure Bio-1A, CIP projects listed in Table 4.3-7 would require project-level biological studies to verify the presence or absence of sensitive resources and determine whether or not the CIP project could be constructed to avoid sensitive resources. To the extent possible, the City and CMWD would avoid all sensitive resources, including sensitive species and Carlsbad Habitat Management Plan (HMP) Habitat Groups A, B, and C, through modifications to CIP project design, trenchless construction methods, or other avoidance measures determined during project-level analyses.

In addition, CIP projects potentially occurring within CDFG-held lands (e.g., Agua Hedionda Lagoon, Batiquitos Lagoon, Buena Vista Creek, Buena Vista Lagoon Ecological Reserves) and within the coastal zone would be subject to the Carlsbad Local Coastal Program and Development Standards in Section 21.203.040 of the Coastal Resources Protection Overlay Zone (CRPOZ) Ordinance. Therefore, these projects would require extensive coordination and review during the design and environmental documentation phases, and would also require a Coastal Development Permit (CDP) from the City of Carlsbad or California Coastal Commission (CCC). Project planning and review would require coordination and approval from CDFG. CIP projects determined to have the potential to impact any Environmentally Sensitive Habitat Area, which essentially captures all sensitive habitats within the coastal zone, would be required to adhere to the additional conservation standards included in Section D.7 of the Carlsbad HMP. Individual CIP projects requiring approvals or permitting (e.g., CDP or HMP Permit) from the Carlsbad Planning Division or CCC will be required to incorporate project-level avoidance and minimization measures into the CIP project description to be consistent with the conditions of the CRPOZ Ordinance.

Therefore, when determined feasible during project-level design and review, pipe placement will follow existing roads, will not bisect habitat areas (e.g., riparian areas), and will be moved away from the center of CDFG-held lands and placed closer to boundaries of the property.

- E-4. This comment states that a statement that an impact is below the level of significance cannot be determined at the program level without conducting biological surveys. As discussed in Section 4.3, Biological Resources, projects determined to have a less than significant impact are located entirely within, and surrounded by, existing disturbed and/or developed land; would not require any land disturbance or other activities that could significantly impact existing biological resources; or, would implement trenchless construction methods (e.g., jack and bore) and setbacks to avoid existing biological resources. These projects are not anticipated to result in any impacts, direct or indirect, to any vegetation communities or habitat types with the potential to support sensitive biological resources; therefore, no surveys are required to make an effects not found to be significant determination in the EIR.

COMMENTS

Ms. Barbara Kennedy (FWS/CDFG-12B0102-12TA0538)

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E-2.
cont

- ii. An adequately dense drilling fluid should be used to avoid travel of drilling fluid in porous sands.
 - iii. The bore should be conducted in a manner that avoids collapse.
 - iv. Borehole pressure should be maintained at levels low enough to avoid hydrofracture.
 - v. Reaming and pullback rates should be maintained at rates slow enough to avoid over-pressurization of the bore.
 - vi. The surface above the vicinity of the drill head should be visually monitored for surface evidence of hydrofracture.
 - vii. Drilling methods should be modified to suit site conditions such that hydrofracture does not occur.
- b. Hydrofractures should be cleaned immediately after they occur. Necessary response equipment should be readily accessible and in good working order.
 - c. All field personnel should understand their responsibility for timely reporting of hydrofractures.

E-3.

- 3. The Wildlife Agencies realize that sometimes pipe placement is predicated on geographical features and engineering limitations of project sites. However, whenever possible pipe placement should follow existing roads and not bisect habitat areas (e.g., riparian areas). When feasible, pipe placement should be moved away from the center of Department-held lands and placed closer to boundaries of the property.

E-4.

- 4. Site-specific biological surveys, vegetation mapping, special status species, protocol-level surveys, and wetland delineation surveys were not conducted in support of this draft PEIR (Section 4.3.1 Research Methods; page 4.3-31). However, “less than significant” impact determinations were made for some projects. It is premature to assume that impacts to sensitive biological resources will be “less than significant” without conducting the appropriate surveys.

E-5.

- 5. The final PEIR should provide a method for identifying the supplemental CEQA documents (e.g., Addendums, Initial Studies, Mitigated Negative Declarations, EIRs) that would be developed when individual projects are initiated. Additionally, all projects that will undergo additional CEQA review should be described in the final PEIR.

RESPONSES

- E-5. Future CIP projects would be subject to all applicable CEQA guidelines and regulations. As stated in Section 15168 of the CEQA Guidelines, at a minimum all future projects would be examined in the light of the program EIR to determine whether an additional environmental document must be prepared. If a later activity would have effects that were not examined in the program EIR, a new Initial Study would need to be prepared leading to either an EIR or a Negative Declaration. At this time, it is reasonable to assume that, when proposed, the CIP projects listed in Table S-3 of the Draft EIR, CIP Projects That Would Require Measures to Mitigate Potentially Significant Impacts, would require the preparation of a new Initial Study. However, at a minimum, the remaining CIP Projects listed in Table S-2 of the Draft EIR, CIP Projects That Would Result in Less Than Significant Impacts and Would Not Require Mitigation, would be examined pursuant to Section 15168 of the CEQA Guidelines to determine whether the project would have the potential to result in an impact not identified in the EIR. If the agency finds that pursuant to Section 15162 of the CEQA Guidelines, no new effects could occur or no new mitigation measures would be required, the Lead Agency can approve the activity as being within the scope of the project covered by the EIR, and no new environmental document would be required.

COMMENTS

Ms. Barbara Kennedy (FWS/CDFG-12B0102-12TA0538)

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We appreciate the opportunity to provide comments on this project. Should you have any questions regarding this letter, please contact Janet Stuckrath (Service) at 760-431-9440, extension 270, or Bryand Duke (Department) at 858-637-5511.

Sincerely,



Karen A. Goebel
Assistant Field Supervisor
U.S. Fish and Wildlife Service



Stephen M. Juarez
Environmental Program Manager
California Department of Fish and Game

cc:
State Clearinghouse (by fax only)

RESPONSES

LETTER F. McMILLIN LAND DEVELOPMENT

- F-1. This comment letter addresses the Water Master Plan. It does not address the analysis of the environmental impacts of these plans contained in the Draft EIR. The City's response to the commenter's request for a revision to the Master Plan is provided as Attachment A (see page RTC-77). The revision to the Water Master Plan made in response to this comment does not result in any changes to the physical implementation of the CIP projects and no changes to the Draft EIR are required.

COMMENTS

McMillin Land Development

A Corky McMillin Company

July 24, 2012

City of Carlsbad
Planning Department
1635 Faraday Avenue
Carlsbad, CA 92008

Attn: Ms. Barbara Kennedy
Subject: EIR 12-01 - Water, Sewer and Recycled Water Master Plan
Updates Program EIR

Dear Barbara,

I am writing this letter on behalf of Quarry Creek Investors, LLC who is the applicant for Master Plan 10-01 and Vesting Tentative Map CT 11-04.

We have been working with the Carlsbad Municipal Water District to provide a redundant water supply system for the proposed Quarry Creek development. This water system is depicted on the Vesting Tentative Map and is supported by a Water System Analysis prepared by Dexter Wilson Engineering, Inc dated March 23, 2012 (a copy is provided with this letter).

F-1. Exhibit "B" from the CMWD Water Master Plan dated November 2011 (copy enclosed) and entitled "Recommended Capital Improvement Projects" has an improvement identified and ID No. 55. The graphic states "FUTURE EMERGENCY INTERTIE (DEVELOPER FUNDED)".

We hereby request that Exhibit "B" and the Water Master Plan text be amended to reflect the redundant system that is proposed by the Quarry Creek project. If there is a need for the District to have an emergency intertie it should be a CIP funded by the District.

Please contact me if you or the consultant has any questions.

Sincerely



Don Mitchell
Senior Vice President
McMillin Land Development

c: Bill Plummer, CMWD
Todd Galarneau, SVP McMillin Land Development

encls: Water System Analysis for Quarry Creek, dated March 23, 2012
Exhibit B from CMWD Water Master Plan

RESPONSES

LETTER G. SAN DIEGO COUNTY ARCHAEOLOGICAL SOCIETY (SDCAS)

- G-1. The comment is a request to be included in the public notification for future individual projects. This comment is noted; the City will include the San Diego County Archaeological Society in the distribution list for future projects that require CEQA review.
- G-2. This comment suggests a revision to mitigation measure Cul-1 in Section 4.4 of the Draft EIR, Cultural and Paleontological Resources, to remove the word “minimally” as it relates to the qualifications of cultural resource professionals. Mitigation measure Cul-1 has been revised as requested.

COMMENTS



San Diego County Archaeological Society,

Environmental Review Committee

4 August 2012

To: Ms. Barbara Kennedy
Planning Division
City of Carlsbad
1635 Faraday Avenue
Carlsbad, California 92008-7314

Subject: Draft Program Environmental Impact Report
Sewer Master Plan and Municipal Water District Water and
Recycled Water Master Plan Updates

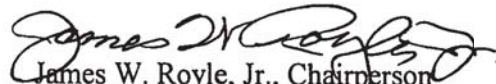
Dear Ms. Kennedy:

I have reviewed the cultural resources aspects of the subject DPEIR on behalf of this committee of the San Diego County Archaeological Society.

- G-1. As Mitigation Measure Cul-1 acknowledges, impact analysis are to be approached on the level of individual projects. SDCAS requests being included in the environmental review process for those projects.
- G-2. On an editorial level, we would suggest revising the first paragraph of Cul-1 to read "...a qualified cultural resource professional who meets the Secretary of the Interior's..." The word "minimally" is unnecessary and also incorrectly modifies the intent of the sentence.

Thank you for including SDCAS in the public review of this DPEIR.

Sincerely,


James W. Royle, Jr., Chairperson
Environmental Review Committee

cc: Atkins
SDCAS President
File

RESPONSES

LETTER H. DIANE NYGAARD, PRESERVE CALAVERA

- H-1. The first comment is an introduction to the letter that describes the mission of the Preserve Calavera organization, and states that the letter provides comments on each of the individual master plans as well as the Draft EIR. These comments are addressed below.

COMMENTS



September 4, 2012

Barbara Kennedy,
Senior Planner
Carlsbad Planning Department
1635 Faraday Avenue
Carlsbad, CA 92008

Subject: Comments on DEIR
Water, Sewer, Recycled Water Master Plan Update

Dear Ms. Kennedy:

These comments on the Draft EIR are made on behalf of Preserve Calavera. Preserve Calavera is a grassroots organization whose mission is to preserve, protect and enhance the natural resources of coastal north San Diego County.

This program level DEIR includes numerous projects for these three master plans that could have significant direct and indirect impacts to these resources. The projects included within these three plans are located throughout this area. Our concerns are the impact on the entire watershed, the effect on the regional and local wildlife corridors, the proximity to existing regional and state reserves, and the potential direct and indirect impacts to sensitive biological resources. Construction of the projects as proposed doesn't just impact the few acres identified for direct impacts, they could have substantial indirect impacts that extend beyond the boundaries of Carlsbad. Our priority concerns are :

H-1.

- Poor integration with land use planning
- Unclear coordination with adjacent jurisdictions impacted by the projects
- Lack of integration with CWN Watershed Management Plan and Agua Hedionda Watershed Management Plan
- Insufficient alternatives analysis

These comments will first address the description of these three master plans as that defines the scope of the projects included in these three plans. Following that are specific comments on the DEIR analysis and mitigation measures.

RESPONSES

- H-2. This section of the letter comments on the adequacy of the Sewer Master Plan. It does not address the analysis of the environmental impacts of these plans contained in the Draft EIR. Please refer to responses to comments 1 through 3 in the City's response to the comments on the Master Plan, provided as Attachment B (see page RTC-89).

COMMENTS

Sewer Master Plan- Scope and Description

Note: Page references are to Sewer Master Plan (MP) April 2012 Dudek)

-Page 2-3 states that the existing Vista/Carlsbad (V/C) interceptor needs additional capacity for “629” units for the future Quarry Creek project. The approved reclamation plan for this site included placing sewer line under the creek to avoid future disturbance of the creek corridor. Since then there has been a project application filed for the development of this site for 656 units. Please confirm that the capacity is sufficient for this higher number of units if necessary and that this can be accommodated with no further disturbance of the creek channel as was assumed in the Reclamation Plan. Such disturbance would be a significant impact that has not been identified or mitigated.

-Also Exhibit 2 of Appendix A shows the 100 acre reclamation part of the site as mixed use and the 60 acre panhandle as commercial/industrial/public. The application for this project shows both areas as med/hi density residential. These residential uses have different flow rates and peak demand times that what is shown in the Plan. This is the only large project possible in this LFMZ and consequently this part of the upper watershed. Please verify that the calculations included for demand/flows from this project as now proposed are within what was projected in the MP.

H-2.

-Page 3-9 discusses the error rate in projecting flows and states that a 3% error in predicting upstream or downstream flows will produce a 20% error rate in the Carlsbad flows. It also identifies the Buena Vista line as the one with highest flows and presumably the greatest potential for error. Please clarify what will be done to update these projections and minimize the effect of these error rates as either high or low errors could result in additional impacts. We are particularly concerned about changes to this line through the Buena Vista Creek Valley as this is one of three sewer lines effecting this small area and all have impacts causing substantial cumulative impacts to this site.

-The MP identifies several septic system areas remaining in the city through the 2035 buildout. Several of these are close to sensitive areas such as Agua Hedionda and Buena Vista Lagoons and the Kato property which also has wetlands and is a key link in the regional wildlife corridor and is targeted for a potential open space acquisition. There is nothing in the MP that addresses either the risk of continuing with such septic systems, or potential impact if they were to be added to the regular system. These systems are in watersheds that are already impaired for bacteria. We are aware of problems downstream from an Oceanside septic system where current monitoring procedures are inadequate to determine if the septic system is contributing to downstream contamination (per city staff expensive DNA testing is required). Please clarify why such septic system are remaining and assess potential impacts of leaving them in place or having them join the regular sewer system. This should be part of alternatives analysis for the project.

RESPONSES

- H-3. This section of the letter comments on the adequacy of the Water Master Plan. It does not address the analysis of the environmental impacts of these plans contained in the Draft EIR. Please refer to responses to comments 4 through 10 in the City's response to the comments on the Master Plans, provided as Attachment B (see page RTC-89).

COMMENTS

Water Master Plan Scope and Description

Note : Page number references are to Water Master Plan Nov 2011 Atkins.

-Page 1-6 and others identifies that the computations for projected water demand are “conservative” and do not reflect future conservation as will be required by SB7- 2009 ie reducing per capita water use by 20% by 2020. It sounds like this will be addressed separately but it in fact should be considered as part of this program or it could be considered piecemealing of impacts. The combined impacts could be greater than if they were properly considered together.

- Tables 4-4 and 4-5 include different horizon years and fail to confirm that the 20% reduction by 2020 is being achieved. Please correct these by showing comparisons that verify the 20% reduction is achieved and by showing comparison at the buildout year of 2035.

-Page 4-15 describes a 1991 study of the Cannon Well Field and that the safe yield was estimated as 400 AFY. It was noted that there currently is only one well in this field at Rancho Carlsbad with an estimated use of 100 AFY. This study identified several potential adverse impacts from excessive pumping from this field but says this could be addressed through a future CMWD program of scheduled observations and monitoring. Since there is already a well in place please clarify what observations and monitoring are now taking place that assure the safe yield is not being exceeded and that there are no adverse impacts as discussed in the study .

H-3. -The Plan notes that there are permits for surface water take of 150 AF for Calavera Creek for recreation and fire and 25 AF for Agua Hedionda Creek. Please identify what the historic surface water takes for each of these permits has been and describe the monitoring/reporting system in place to assure that these amounts are not exceeded.

-Page 7-20 states “ Should the CMWD continue to experience chronic water quality problems in and around the La Costa Lo Tank service area it may want to consider eliminating the storage tank...” Please clarify what the threshold is for considering corrective action for this known water quality problem area ? It sounds like some corrective action should be included in the Plan and failure to do so will result in adverse water quality impacts that have not been addressed. Furthermore this is also a project alternative that should have been considered as part of the Alternatives Analysis.

=Page 7-21 includes a recommendation to consider a formal Asset Management Analysis to extend the service life of facility components. There is no indication as to whether this recommendation has been accepted and how this might affect the components or timing of the Plan. Please clarify.

-Page 7-30 recommends further evaluation of staffing needs because the preliminary analysis concludes either staff are extremely efficient, the relatively young age of facilities reduces staffing needs, or the agency is substantially understaffed. Failure to provide adequate staffing could result in increased system failures causing indirect impacts that have not been addressed. Please clarify if such a staffing analysis will be done or what other actions will be taken to assure system monitoring and maintenance will be carried out in conformance with the Plan.

RESPONSES

- H-4. This section of the letter comments on the adequacy of the Recycled Water Master Plan. It does not address the analysis of the environmental impacts of these plans contained in the Draft EIR. Please refer to responses to comments 11 through 22 in the City's response to the comments on the Master Plans, provided as Attachment B (see page RTC-89).

COMMENTS

Recycled Water Plan Scope and Description

Note – page references are to 2012 Recycled Water Master Plan, Carolloa, Jan 2012.

-Page ES-6 notes that about 50% of the projected increase in demand will be from outside the Carlsbad service area and that currently about 20% of the water demand is met with recycled water and at build-out this will increase to 27% . We could find no explanation for how this shift effects the required per capita reduction of water use of 20% by 2020- especially if a good part of this is going to residents outside of Carlsbad. Please clarify.

- Page 1-5 identifies project objectives. Not one of these is related to reducing the per capitata use of freshwater which it seems should be one of the primary objectives for this entire plan.

-Page 2-21 notes that the La Costa golf course will reduce irrigation of turf using recycled water, but will be using potable water for irrigation of greens and tees. Please clarify how policies would allow such a change in water use since it would seem this is moving the wrong direction.

-Figure 3-4 shows the map of existing recycled water customers. Comparing this to the map of future customers indicates that almost none of the new customers that will be served by expansion of the lines live in Carlsbad. The costs for this expansion will be borne by Carlsbad residents, but the water will go outside the city. Since utilities pass costs on to ratepayers please clarify how this will work.

H-4. -One of the issues with supply is the diurnal variation in use for individual customers. Some like golf courses typically irrigate 12 hours per day but others typically irrigate within 3 hours in the early evening. Page 3-14 states “CMWD may need to implement forms of demand management to better utilize infrastructure”.... And later suggests improved on-site storage, particularly for users like golf courses. Since policy actions like this could reduce the need for expanded facilities, and the associated adverse environmental impacts of such facilities- please clarify whether such policies are assumed to be included as this should be part of consideration of how to reduce project associated adverse impacts.

-Page 3-16 implies there will be no agricultural uses at build-out. Given increasing emphasis on eating locally produced food, push for community gardens and numerous programs to increase agricultural uses one wonders if this is realistic. Please include further discussion of this issue and how changing circumstances might affect continuation of local agriculture- and the resultant impact on the use of water/recycled water.

-The analysis of future demand for cooling was based on an office HVAC study performed in San Francisco. The climate of San Francisco is dramatically different from that of Carlsbad- much cooler average temperatures, fewer very warm days and less sunshine. These climate related effects on HVAC demand will only increase with temperature rise. Please clarify the basis for the conclusion that this study is applicable to Carlsbad.

-Page 3-24. It should be noted that the OHCC community receives a special rate for potable water for their golf course from the city of Oceanside (it is counted at the lower residential rate. This was done with the understanding that they would modify their landscaping to reduce water use. This was recently done- with the help of a \$ 184k grant from the city of Oceanside. Please clarify how financial issues like this for a particular user, and between cities will be addressed.

RESPONSES

H-5. This comment states that the EIR should include an objective to reduce water use, and address how reductions in water use would impact the need for projected potable water and recycled water facilities. The intent of the Water Master Plan is to provide adequate infrastructure to meet projected demand. Planning for a speculative reduction in water demand would potentially result in undersized potable water facilities, which would ultimately result in the need to expand facilities by proposing additional projects that may result in environmental impacts not addressed in the Draft EIR. The EIR includes a conservative analysis of projected water demand so that the extent of potential environmental impacts may be fully captured. If the CMWD determines that certain water CIP projects are not necessary due to reductions in potable water demand, certain CIP projects included in the Master Plan may not need to be constructed, and environmental impacts may be reduced compared to what is proposed in this EIR.

H-6. This comment requests additional discussion about how phasing could reduce combined cumulative impacts and suggests that a map be prepared that overlays CIP projects by construction phase. Phasing for each Master Plan is discussed in Chapter 2, Project Description. Although some CIP projects have projected start dates, the order of CIP project implementation would be adjusted each year and projects would be prioritized based on need, availability of staff, and funding.

The analysis in the EIR uses a worst-case scenario for potential construction impacts. For example, the air quality analysis estimates emissions of criteria pollutants that would be emitted in a conservative scenario that assumes that several of the CIP projects would be constructed simultaneously. Sections 4.3, Biological Resources, and Section 4.4, Cultural and Paleontological Resources, include mitigation to address potential impacts during construction.

H-7. This comment recommends that the EIR include guidelines that specify under what conditions trenchless construction would be used to reduce impacts. Conditions that would employ trenchless construction methods are listed in Section 2.6 of the EIR, Construction Methods. As discussed in this section, trenchless pipeline installation would be used for some major roadway crossings, such as Interstate 5, high traffic impact areas, railroad crossings, and across sensitive habitat areas. The CIP projects anticipated to utilize trenchless sewer pipelines include Sewer Master Plan CIP I-4, CIP I-5, and CIP SR-14; Water Master Plan CIP F15 to cross Interstate 5, and CIP 10 and CIP 48; and recycled water pipeline projects include crossing Palomar Airport Road along Avenida Encinas and crossing San Marcos Creek in the La Costa South Golf Course.

The potential for construction to impact sensitive biological resources is addressed in Section 4.3, Biological Resources. The biological resources analysis determined that proposed CIP projects would result in potentially significant direct and/or indirect impacts to biological resources during construction. The EIR includes mitigation measures to reduce impacts, including avoiding sensitive habitat and utilizing trenchless pipeline installation methods during CIP project construction, as required in mitigation measure Bio-2A(3).

H-8. This comment states that the EIR should include guidelines for moving pipelines out of sensitive areas, and siting construction staging areas and temporary access roads to minimize impacts to biological resources. The EIR does include mitigation measures that require the avoidance of sensitive areas in Section 4.3, Biological Resources. Mitigation measure Bio-1H requires that staging areas be located outside of sensitive habitat areas. Mitigation Measure Bio-2A(3) requires that certain habitats be avoided to the maximum extent practicable through project-

COMMENTS

In the absence of existing agreements the assumptions that such infrastructure expansion to serve another city will be paid by ratepayers seems unrealistic.

-Table 3-7 shows the RCB golf course is being irrigated with recycled water. The potable water plan states that this area is now being watered with well water. Why would they pay for more expensive recycled water- and why should the recycled water system be expanded to accommodate users like this that have a choice to use such water or not?

-Page 4-16 notes that water from the desal plant will have higher boron concentrations, even when mixed with other recycled water. Page 4-8 says "If possible, CMWD should attempt to ease the regional Board's limits of manganese that are applicable to recycled water." Is this the policy to lobby to reduce the standards?

H-4.
cont.

-Page 4-8 also notes further effort should be made to determine the source of the manganese discharge.. Please clarify if this has been done and how such actions will continue to make sure that such dischargers are identified and corrective action is taken.

-Chapter 4 goes through evaluation of 6 alternative recycled water supply alternatives. The comparison is based on capital and O & M costs – but there is only one sentence in the entire discussion that has anything to do with potential adverse environmental impacts. There is some mention in Chapter 10 of potential costs for land acquisition that are one of the types of environmental costs that are specifically not included in the analysis. This alternatives analysis should be included in the EIR with evaluation of the environmental impacts and not just the costs.

Comments on DEIR Analysis and Mitigation Measures (MM)

H-5. - There is no objective to reduce water use, although this is now a requirement of state law. It is our understanding that this is being addressed separately. Clearly this needs to be integrated with the water master plan as it is unknown how this will reduce the projected demand, need for such extensive water facilities and related impact on the expansion of recycled water facilities.

H-6. -There is very little discussion about project phasing which could be done in a way to reduce the combined cumulative impacts. Showing overlay maps of the three programs by phase would facilitate an understanding of how projects might be combined in a geographic area, Figures 2-2 and 2-3 should be revised to distinguish this phasing.

H-7. -Page 2-27 identifies segments for trenchless lines- but there are no guidelines that specify under what conditions such methods would be used. This is of particular concern through sensitive habitat. Without such guidelines there may be excessive trenching related impacts. Please add guidelines that discuss consideration of construction methods as one way to reduce adverse impacts.

H-8. -The plan also establishes no guidelines for moving lines, particularly sewer lines, out of sensitive areas. This program level document should establish guidelines for such considerations that would then get implemented with the project specific planning to follow. This should also include guidelines for basic construction items like construction staging and lay down areas and temporary access roads. Guidelines should specify that these will be located to minimize impacts.

RESPONSES

level siting during CIP project design and trenchless pipeline installation methods during CIP project construction. Additional project-specific measures, including measures proposing construction guidelines and restrictions for the avoidance and protection of sensitive areas, would be identified and implemented based on the results of the biological surveys required in mitigation measures Bio-1A through Bio-1E.

- H-9. The comment states that the discussion of the HMP for Natural Communities in the City of Carlsbad in Section 2.6.1, Regulatory Compliance, of the EIR should clarify that construction outside of the HMP hardline areas will still provide full consideration for protection of sensitive biological resources and comply with the Multiple Habitat Conservation Program (MHCP).

The discussion of the HMP in Section 2.6.1 is intended to provide an overview of the HMP as it applies to the proposed project. A discussion of the MHCP and an analysis of the potential impacts and mitigation for CIP projects located outside of the HMP area is contained in Section 4.3, Biological Resources. Specifically, Section 4.3.5.8 of the EIR addresses compliance with habitat conservation plans. As noted on page 4.3-52, projects outside of Carlsbad may be within cities that are currently preparing draft MHCP plans, however, since these plans have not been finalized, these projects are not required to demonstrate consistency with these plans. The City and CMWD may voluntarily comply with these plans during the design phase of individual CIP projects in consultation with the USFWS, CDFG, and the local jurisdictions. As shown in Table S-3 of the Draft EIR, CIP Projects That Would Require Measures to Mitigate Potentially Significant Impacts, there is only one project located outside of Carlsbad with the potential to result in a potentially significant impact to biological resources (Water CIP Project 47).

- H-10. This comment states that Section 2.6.1 of the Draft EIR, and specifically the discussions pertaining to agency consultation and permitting for biological resources should include language that there will be a public noticing process. The comment further states that permit consultation with agencies alone is not sufficient. The discussion of biological resource regulations in Section 2.6.1, Regulatory Compliance, of the EIR, describes the applicable biological resource agency requirements for future CIP projects. Public noticing for future CIP projects that would require subsequent CEQA processing would occur in compliance with CEQA statutes and guidelines. As reflected throughout Section 4.3 of the Draft EIR, the City and CMWD do not propose that permit consultation with agencies alone is sufficient to mitigate an impact. Detailed mitigation measures are provided for avoidance, minimization, and compensatory mitigation for all potentially significant impacts on sensitive biological resources.

- H-11. This comments states that the project design feature in Section 2.6.2 of the Draft EIR, Project Design Features, Aesthetics, should be revised to prevent invasive species from being replanted as part of site restoration.

This comment is noted, and in response, the description of the project design feature has been revised as follows on page 2-33 of the EIR:

Disturbed areas will be restored following construction consistent with original site conditions and surrounding vegetation. If removed vegetation included invasive plant species, the restored area shall be revegetated with a mix of native, non-invasive plants that are compatible with the surrounding setting.

COMMENTS

- H-9.** -Page 2-28 includes a statement about construction within HMP areas, but much of the construction (particularly for recycled water) is outside the HMP area and in cities with no adopted local conservation plan. There needs to be better clarity that construction outside of the HMP hardline areas will still provide full consideration for protection of sensitive resources and comply with provisions in the MHCP.
- H-10.** -Page 2-29 needs to add that there will also be a public noticing process- permit consultation with agencies alone is not sufficient.
- H-11.** -Page 2-33 says “Disturbed areas will be restored following construction consistent with original site conditions and surrounding vegetation.” The intent of this is likely good-but if original conditions are degraded and include invasive plants that needs to be addressed. Site disturbance often creates conditions that allow invasive plants to proliferate so active revegetation may be needed. This language should be modified to include all invasives will be removed from disturbed areas, area replanted with appropriate mix of plants- with preference for locally sourced native plants and area will be monitored and corrective action will be taken where invasives spread. Note- the city of Carlsbad official plant palette includes plants that are known to be invasive in San Diego County and this needs to be addressed also.
- H-12.** -Page 2-33 should also provide that creating impervious surfaces, particularly in creek buffer areas, will be minimized- and permeable surfaces will be used where appropriate.
- H-13.** -Page 2-34/35 The Wildlife Agency comment letter noted that fencing should be provided if grading or clearing is within 100’ of proposed biological open space- we could not find this condition- has it been included? Also “proposed biological open space” needs further clarification. There are identified hardline boundaries for some areas but for Standards areas such boundaries have not been defined but the resources still need to be protected.
- H-14.** -Table 4.0-2 defines the geographical scope for cumulative impact analysis. For Biological Resources this should be modified to the entire MHCP area. Several species of concern require action by other MHCP cities- several of which will be impacted by this project. Text identifies only one CIP project within the city. This is not correct as Figures 2-2 and 2-3 show several.
- H-15.** -GHG analysis should not just be limited to “global atmospheric GHG emissions.” There is a regional plan with established thresholds which should be the basis for determining impacts.
- H-16.** -Hydrologic evaluation should not just be limited to downstream impacts. There could also be impacts at the project site and some structures are actually known to impact upstream conditions.
- H-17.** -Page 4.0-10 should not just be adopted General Plans- there needs to be some consideration for actual current conditions and assumed future conditions. The City of Carlsbad is 2 years into a major General Plan update . The projected demand numbers have incorporated some of this at a city wide level. The City of Oceanside has not updated their General Plan for many years, but has made numerous amendments.
- H-18.** =Section 4.3.2.1 Biological Resource Context should also include consideration that there may be additional natural open space preserved- there is an adopted Citizen’s Open Space report that identifies potential parcels and a recent City Council allocation of \$ 5m for such acquisitions..

RESPONSES

- H-12. This comment states that page 2-33 of the Draft EIR should include a design feature to minimize impervious surfaces, particularly in creek buffer areas. The use of pervious surfaces and semi-pervious surfaces is already included as a project design feature under the Hydrology and Water Quality heading of the EIR in Section 2.6.2, Project Design Features on page 2-37.
- H-13. This comment requests the location in the Draft EIR where the California Department of Fish & Game's recommendation for a 100 feet construction buffer was implemented. Mitigation measure Bio-1F in Section 4.3 of the Draft EIR, Biological Resources, requires the installation of temporary orange construction fencing that clearly delineates the edge of the approved limits of grading and clearing and the edges of environmentally sensitive areas that occur beyond the approved limits. The CDFG submitted a comment letter on the Draft EIR dated September 12, 2012 (comment letter E). In this letter, the CDFG confirmed that the Draft EIR had incorporated the agency's previously recommended measures.
- H-14. This comment states that the geographic scope for the cumulative biological resources analysis should be the entire MHCP area because several projects are located outside of the city of Carlsbad as shown on Figures 2-2 and 2-3. To clarify, although several CIP projects are located outside of the city limits of Carlsbad, only one CIP project has the potential to impact biological resources is located outside of the HMP area (Water CIP Project 47). Table 4.0-2 of the Draft EIR, Geographic Scope of Cumulative Impact Analysis, identifies the appropriate geographic scope for the cumulative impact analysis as the areas contained within the planning boundaries for the Carlsbad HMP. However, where appropriate, the cumulative impact analysis area extends beyond the HMP boundary. For federally listed species whose critical habitat occurs within the CMWD service area, the geographic scope would include all contiguous critical habitat units that extend beyond the boundaries of the city of Carlsbad.
- H-15. This comment states that the geographic scope for the cumulative greenhouse gas emissions analysis should not be limited to global atmospheric greenhouse gas emissions, and regional thresholds should be used.
- Emissions of greenhouse gases are not localized in nature; all greenhouse gas emissions, regardless of the location of the source, contribute to the potential for global warming. Therefore, the global inventory of GHG emissions is the appropriate geographic scope for greenhouse gas emissions. However, the impact analysis in Section 4.7, Greenhouse Gas Emissions, of the EIR does use regional thresholds established by the County of San Diego to determine the proposed project's contribution to a global impact.
- H-16. This comment states that the geographic scope of the cumulative hydrology and water quality analysis should not be limited to downstream from the CIP project locations, because impacts may occur at the project site, and some structures result in upstream impacts. The geographic scope of the cumulative analysis has been updated to clarify that the entire Carlsbad watershed was considered in the cumulative analysis. This clarification does not affect the conclusion of the analysis. As discussed Section 4.9 of the Draft EIR, Hydrology and Water Quality, the potential for water quality and hydrology impacts that could result from construction and operation of the CIP projects would be less than cumulatively considerable as a result of compliance with applicable regulations. These regulations, including the Construction General Permit and local stormwater regulations are intended to reduce potential water quality and hydrology impacts at a specific project site, so that the project would not result in an off-site impact, either upstream or downstream. Therefore, impacts that would occur at a particular CIP project

RESPONSES

location are addressed as direct and cumulative impacts in Section 4.9, Hydrology and Water Quality. Impacts that may affect the localized alteration of drainage patterns (either upstream or downstream) were included in the analysis in the discussion of the Master Plans' consistency with applicable water quality and hydrology regulations.

- H-17. This comment states that the list of planning documents considered in the cumulative analysis should include general plans currently being prepared. Because these plans have not been adopted, they are not the applicable planning document for the jurisdiction. The adopted General Plans, including all adopted amendments, are the applicable planning documents for consideration in the cumulative analysis. However, as stated on page 4.0-10 of the Draft EIR, the most current economic, demographic, land use, and transportation data projections are provided by SANDAG and are also incorporated in the cumulative analysis.
- H-18. This comment requests that the discussion of Regional Resource Planning Context in Section 4.3.2.1 of the Draft EIR include a Citizen's Open Space Report that identifies open space parcels for potential acquisition by the City of Carlsbad. It is assumed that the commenter is referring to the Citizens' Committee for Review of Carlsbad's Open Space Plan and Programs' recommendations to the City Council regarding the preservation and management of open space areas in Carlsbad. These recommendations were incorporated into the General Plan in 1994 as part of the Open Space Amendment. The General Plan Open Space and Conservation Element, as amended, identifies objectives for establishing open space lands in Carlsbad, including open space for the preservation of natural resources; however, the HMP is the applicable planning document specifically for biological resources. The Open Space and Conservation Element requires compliance with the HMP for protection of sensitive resources. No revisions to the Draft EIR are required in response to this comment.

RESPONSES

- H-19. This comment provides a portion of a sentence from page 4.3-6 of the Draft EIR and states that the Draft EIR should acknowledge that agricultural land may support wildlife and that potential impacts on agricultural land should be addressed. The Draft EIR states that well-managed, modern agricultural areas used for commercial row crops, orchards, and vineyards can be devoid of wildlife. Well-managed agricultural areas are closely monitored for plants and animals other than those beneficial to the commercial crops, and these species are typically removed. Therefore, these lands are often aggressively maintained for the sole purpose of agricultural production and do not typically provide suitable conditions for wildlife species. However, as the Draft EIR acknowledges in the following sentence, fields and pastures can provide habitat for native small mammals and foraging habitat for raptors. The Draft EIR provides an adequate analysis of the proposed impacts on all habitat types, including agricultural lands, which are known to occur within the study area based on the research methods described. Therefore, agricultural lands are included in the impact analysis. Mitigation measure Bio-2A includes mitigation for impacts to agriculture lands.
- H-20. This comment states that the draft Oceanside MHCP Subarea Plan should be included in the regulatory framework for the proposed project. Because this plan has not been adopted, projects proposed in Oceanside are not subject to the guidelines and regulations outlined in the subarea plan. Further, there are no CIP projects proposed within Oceanside that were determined to have a potential to impact biological resources or conflict with the draft Oceanside MHCP Subarea Plan.
- H-21. This comment states that mitigation measures Bio-1A and Bio-1E should include requirements for surveys to identify wildlife movement corridors to determine if further mitigation is required. Impacts related to wildlife movement corridors are addressed in Section 4.3.5.6, Issue 4 – Wildlife Corridors. As discussed in this section, several of the proposed CIP projects would occur within and/or in the immediate vicinity of regional corridors and linkages identified under the Carlsbad HMP. However, none of the proposed projects are anticipated to adversely affect, either directly or indirectly, the continued function of the areas in facilitating wildlife movement through the local and regional area. Therefore, potential impacts to wildlife movement resulting from the proposed Master Plans would be less than significant and no mitigation is required.
- H-22. This comment states that the City should utilize a three stage evaluation process for wetlands consisting of avoidance, minimization, and as a last resort, mitigate. The intent of the City and CMWD in implementing the proposed Master Plans is to follow the suggested process. Impacts to wetlands are addressed in Section 4.3.5.5 of the Draft EIR, Issue 3 – Wetlands. As discussed throughout this section and proposed within mitigation measures Bio-1B and Bio-2A, impacts to sensitive areas potentially supporting wetland habitats shall be avoided to the maximum extent practicable through project-level siting during CIP project design and trenchless pipeline installation methods (e.g., jack and bore, horizontal directional drilling) during CIP project construction.

Further, and as proposed within mitigation measure Bio-1A, CIP projects with the potential to impact wetlands would require project-level biological studies to verify the presence or absence of potential jurisdictional resources and determine whether or not the CIP project could be constructed to avoid potential jurisdictional resources. To the extent possible, the City and CMWD would avoid all potential jurisdictional resources through modifications to CIP project design, trenchless construction methods, or other avoidance measures determined during project-level analyses. Where impacts cannot be avoided, minimization and mitigation measures are proposed to reduce and fully compensate the impacts.

COMMENTS

- H-19.** -Section 4.3-5/6 says “modern agricultural areas ... can be devoid of wildlife.” They of course can also be rich with wildlife as is the case with several of the few remaining agricultural parcels in Carlsbad- for example Robertson’s Ranch which is adjacent to hardline preserve land and close to AH Lagoon, and the Kato property which is a key part of the regional wildlife movement corridor. The EIR is supposed to assess the impacts of this program and it implies that this erroneous statement is applicable here and in many cases it is not.
- H-20.** -4.3-23 Need to reference the Oceanside draft Sub Area Plan (SAP) as the guideline document. This is what has been used for project review for several years.
- H-21.** -Mitigation measures Bio-1a and 1e need to also include that surveys will identify wildlife movement corridors, and if this is found to be an issue further mitigation will be provided such as fencing location, roadway protection and employee training.
- H-22.** -4.3-55 Issue 3 for wetlands makes no mention of the three stage evaluation- first avoid, then minimize and only as a last resort mitigate. This concept of avoidance/minimization needs to be included as a first phase of considering project design.
- H-23.** -Issue 4 Wildlife Movement could have significant impacts if it is not addressed in the biological surveys as noted above.
- H-24.** -Issue 5 The Wildlife agency comment letter noted the importance of minimizing changes to the hydrologic regime that may impact biological resources and in considering the means to convey water. The discussion of hydrology did not specifically address these potential biological impacts which are separate from the water quality indicators that were assessed. This remains a potentially significant unmitigated impacts.
- H-25.** -4.3.3 Cumulative Impacts . This does not adequately evaluate the projects outside the city limits of Carlsbad. This is not just a single project- there are multiple recycled water lines and facilities. The EIR needs better analysis and mitigation for these impacts in other jurisdictions.
- H-26.** -It is also our understanding that there will be agreements between agencies about selling recycled water. Coordinating plans for expensive infrastructure across city lines- and doing them in a way to minimize cost is certainly a good thing. But these agreements are key to this plan working and this issue should be acknowledged and discussed in the EIR. Will such agreements be secured prior to construction?
- H-27.** -Page 4.9.2.3 should also include reference to the existing Watershed Management Plans- the Carlsbad Watershed Network WMP and the Agua Hedionda WMP. These are referenced in the Drainage Master Plan and should also be included here- particularly the need to consider these for potential mitigation projects.

RESPONSES

H-23. This comment reiterates the comment that significant impacts to wildlife movement could occur if not addressed in biological surveys. Refer to response to comment H-21.

H-24. This comment references the comment letter submitted by CDFG in response to the NOP for the project (this letter is included in Appendix A of the EIR). Specifically, the comment refers to CDFG's statement that "Mitigation measures to alleviate indirect project impacts on biological resources must be included, including measures to minimize changes in the hydrologic regimes on site, and means to convey runoff without damaging biological resources, including the morphology of on-site and downstream habitats". The comment further states that the discussion of hydrology in the Draft EIR did not specifically address the potential biological impacts and that the impacts remain potentially significant and "unmitigated".

Potential indirect impacts on biological resources resulting from changes in site hydrology and runoff conveyance are adequately addressed in Section 4.3.5.3 (Issue 1 – Candidate, Sensitive, or Special Status Species), Section 4.3.5.4 (Issue 2 – Riparian Habitat and Other Sensitive Natural Communities), and Section 4.3.5.5 (Issue 3 – Wetlands) of the Draft EIR. The commenter is also referred to page 4.9-16 under Section 4.9.3.2 (Issue 2 – Alteration of Drainage Patterns) of the Draft EIR for a specific discussion of localized temporary or permanent alteration of drainage patterns, including disclosure of potential effects on sensitive biological resources downstream of proposed CIP project sites resulting from deposition of pollutants and sediment to the watershed outlets, increase in polluted runoff to surface receiving bodies, and increase in the flood potential downstream.

As discussed in throughout Section 4.3, direct impacts to sensitive species and habitats, including wetlands, could result from the direct fill, dredge, or discharge into sensitive habitats, including jurisdictional waters and wetlands. Impacts were determined to be potentially significant and mitigation measures Bio-1B, Bio-1E, Bio-1F, Bio-1H, Bio-1I, and Bio-2B are proposed. Additionally, during construction, short-term indirect impacts during construction would be minimized through CIP project design features and standard construction methods and practices that are required to comply with existing regulations. The City and CMWD are required to prepare and implement prevention plans and Best Management Practices (BMPs) to minimize, control, and treat storm water runoff, fugitive dust, and other pollutants at the CIP construction site. Construction activities for CIP projects would comply with the federal Clean Water Act, California State Porter-Cologne Water Quality Control Act, the implementing regulations of the State Water Resources Control Board (SWRCB) and Regional Water Quality Control Board (RWQCB), and the National Pollutant Discharge Elimination System (NPDES) Program, which would include the preparation of Erosion Control Plans and Storm Water Pollution Prevention Plans (SWPPPs), and the implementation of prescribed BMPs, thereby avoiding and minimizing potential indirect impacts to sensitive biological resources during project construction. Implementation of these required practices would reduce potential indirect impacts during construction to a less than significant level.

The CDFG submitted a comment letter of the Draft EIR dated September 12, 2012. In this letter, the CDFG confirmed that the Draft EIR had incorporated the agency's previous comments. This letter is provided as comment letter E.

H-25. This comment states that the cumulative analysis for biological resources does not adequately evaluate the projects outside Carlsbad. Refer to response to comment H-9.

RESPONSES

- H-26. This comment requests additional information regarding agreements between agencies to use recycled water. Any future agreements would rely on coordination between the affected agencies. The EIR addresses the potential physical environmental impacts of the Recycled Water CIP projects as proposed in the Recycled Water Master Plan. This comment does not address the adequacy or accuracy of information contained in the EIR; no further response is required.
- H-27. This comment states that the list of applicable local regulations in Section 4.9, Hydrology and Water Quality, should also include the Carlsbad Watershed Management Plan (WMP) and the Agua Hedionda WMP. As stated in Section 5.0 of the Carlsbad WMP¹, the WMP does not take the place of the Municipal Storm Water Permit, the Urban Runoff Management Program or the Standard Urban Storm Water Mitigation Plan requirements mandated under the NPDES permit, or the City's storm water requirements. The plan proposes cooperative efforts, policies, projects and programs to be implemented by the City of Carlsbad and the other jurisdictions within the watershed, such as coordination and augmentation of existing monitoring and data collection systems. The WMP does not include policies that pertain to construction or operation of the proposed CIP projects. Similarly the Agua Hedionda WMP² implementation actions include actions to be implemented by local jurisdictions and agencies, such as incorporating low impact development techniques into local codes. The Agua Hedionda WMP does not include requirements to be implemented by individual developments, such as the CIP projects. Therefore, the WMPs are not considered applicable local regulations and are not included in Section 4.9.2.3 of the EIR.

¹ Carlsbad Watershed Network. 2002. Carlsbad Watershed Management Plan. February.

² Tetra Tech. 2008. Agua Hedionda Watershed Management Plan. Produced for the City of Vista. August.

RESPONSES

- H-28. This comment states that the proposed Master Plans would provide excess capacity, and further discussion of population and housing impacts is required in the EIR. The commenter does not provide any documentation to support the statement that excess capacity would be provided, or that this excess capacity would be growth inducing.

As discussed in Section 5.1, Effects Found Not Significant, and in additional detail in Chapter 2, Project Description, the plans have been developed to accommodate the projected population growth of the region until 2035. The estimated recycled water demand includes the projected demand from growth outside of the CMWD service area that would purchase recycled water from CMWD. The Master Plans respond to, rather than induce growth in the area. The CIP projects would be phased so that the infrastructure is developed concurrently with the increased housing demand and population. If future demand does not require additional facilities in certain areas, the associated CIP projects would not be constructed.

- H-29. This comment asserts that maintenance of the proposed CIP facilities is not addressed in the Draft EIR. The proposed access roads would be decomposed granite or gravel access roads and are not anticipated to require future grading. If, at the time these projects are proposed, it is determined that a maintenance program would be required for these facilities that would have the potential to result in impact not identified in the EIR, additional analysis would be required. However, at this time grading and clearing programs are not proposed. The pipeline projects are proposed within existing or future roadways and would not require clearing to access manholes associated with these projects. Impacts related to maintenance are addressed in Sections 4.2 Air Quality, 4.3 Biological Resources, 4.5 Energy, 4.7 Greenhouse Gas Emissions, 4.8 Hazards and Hazardous Materials, 4.10 Land Use, 4.11 Noise, and 4.12 Transportation/ Traffic of the EIR.

- H-30. This comment asserts that the Draft EIR alternatives analysis is inadequate and refers to suggestions listed earlier in the letter. As discussed in Chapter 6, the purpose of the alternatives analysis is to explore ways that most of the basic objectives of a proposed project could be attained while reducing or avoiding significant environmental impacts of the project as proposed. The CEQA Guidelines indicate that EIRs are required to evaluate a "...range of reasonable alternatives to the project, or to the location of the project, which could feasibly attain the basic objectives of the project" (Section 15126.6[a] CEQA Guidelines). According to the Guidelines, not every conceivable alternative must be addressed, nor do infeasible alternatives need be considered.

The proposed alternatives in Chapter 6, Alternatives, of the EIR, would both reduce potential biological and cultural impacts compared to the proposed project. Additional alternatives to eliminate potential biological and cultural impacts compared to the proposed project would be variations on the Reduced Project Alternative and would not contribute any substantial additional analysis to foster informed decision-making and public participation in the environmental process. Therefore, the Draft EIR alternatives analysis is sufficient for a programmatic document and no revisions to the Draft EIR are required in response to this comment.

The commenter's suggestions for alternatives, including leaving existing septic systems in place, alternative options for the La Costa Lo Tank, and including additional recycled water supply alternatives, would not minimize any of the impacts identified in this EIR, and therefore are not necessary to include in the analysis. Including an objective for reducing per capita water use is a goal of the City; however, as stated earlier, if future demand does not warrant the need for the additional CIP facilities proposed in the Water Master Plan, they would not be constructed.

COMMENTS

H-28. -5.1-3 and 5.2 Concludes there is no impact to Population and Housing and that these plans are not growth Inducing. However these plans will provide excess capacity even beyond what was projected for housing and job growth at build-out. This capacity is clearly greater “what is needed to service planned development identified in planning documents.” This requires some further discussion to substantiate that this excess capacity will not support population growth beyond what is in the existing adopted General Plan which has been cited as the controlling document. This should also discuss potential for growth outside of Carlsbad as a substantial part of the Carlsbad recycled water production will go to those outside residents.

H-29. -The EIR includes no discussion of maintenance impacts associated with all of these facilities. Access roads may require periodic grading , clearing may be needed to access manholes, etc. The EIR needs to add all of these temporary, on-going intermittent impacts and provide appropriate mitigation.

H-30. - The alternatives analysis has been woefully inadequate. Several specific suggestions are included in comments above. Pieces of alternatives analysis are mentioned in some of the individual program component master plans, but even those demonstrate no concern for reducing the adverse impacts from such a massive construction program. It appears to be assumed that alternatives analysis will occur as individual projects move forward. That will make it impossible to make the kind of major changes that might be feasible if this were approached at a system level- with integration of water, recycled water and sewer with overarching objectives to reduce water use, and green house gases. In many cases it is not sufficient to just look at alternatives at the individual project level. This is of particular concern given the mandate to reduce per capita water use that has not been integrated with these plans.

Thank you for your consideration of these comments. We look forward to working with you to address these concerns.

Sincerely,

Diane Nygaard
On Behalf of Preserve Calavera

Cc: Bryand Duke CDFG,
Janet Stuckrath USFWS

RESPONSES

LETTER I. RINCON BAND OF LUISENO INDIANS

- I-1. This comment states that part 3(f) of mitigation measure Cul-1 in Section 4.4 of the Draft EIR, Cultural and Paleontological Resources, should be revised to make Native American monitoring mandatory, rather than required as necessary, as stated in the Draft EIR. This mitigation measure has been revised as follows in response to this comment:

Cul-1(3)(f) Construction monitoring by a qualified professional and, ~~if necessary,~~ appropriate Native American monitors as identified through ~~the information-scoping process and/or by~~ consultation with the NAHC or Native American Tribe.

- I-2. This comment states that Native American monitoring should be required for all ground disturbing activities to mitigate impacts to human remains. Refer to response to comment J-13.

COMMENTS

RINCON BAND OF LUISEÑO INDIANS Culture Committee

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September 04, 2012

City of Carlsbad, California
ATTN: Barbara Kennedy
Carlsbad Planning Division
1635 Faraday Avenue
Carlsbad, CA 92008

Re: Water, Sewer and Recycled Water Master Plan Updates Program EIR, EIR 12-01

Dear City of Carlsbad, California,

This letter is written on behalf of the Rincon Band of Luiseño Indians, and contains our comments regarding the above named draft PEIR.

I-1. At Section 4.4.4.2, Issue 1, Historical and Archaeological Resources, a significance level of “Potentially significant” is attached to the impacts to archaeological resources. Mitigation measure Cul-1 is intended to lessen these impacts, and as we previously recommended, the inclusion of Native American monitoring needs to be made mandatory for all ground disturbance activities, and not be just an “if necessary” consideration (3f).

I-2. At Section 4.4.4.3, Issue 2, Human Remains, a significance level of “Less than significant” is given to the disturbance and discovery of human remains. We understand that CEQA, the California Public Resource Code, and the California Health and Safety Code contain procedures and provisions for such discoveries; however, we attribute the discovery of Native American human remains to be of great significance, and proper care and treatment must be given to our ancestor’s remains. Thus, Native American monitoring should again be mandatory for all ground disturbance activities, and consultation with the Luiseno Bands be included as part of the mitigation process.

If you have any questions, please contact (760) 297-2635. Thank you for this opportunity to protect and preserve our cultural assets.

Sincerely,

Rose Duro
Rincon Culture Committee Chair

RESPONSES

LETTER J. SAN LUIS REY BAND OF MISSION INDIANS

- J-1. This comment introduces the comment letter, provides a brief description of the territory of the San Luis Rey Band of Mission Indians (the Tribe), and states that the Tribe does not oppose of the proposed CIP projects.
- J-2. This comment states that the Tribe is opposed to any plans with the potential to damage cultural or sacred sites or human remains, and states that additional mitigation measures are required to reduce the cultural resources impacts identified in the Draft EIR to a less than significant level. The commenter's recommendations for mitigation are outlined in comments J-4 through J-20.

COMMENTS

SAN LUIS REY BAND OF MISSION INDIANS

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September 13, 2012

Ms. Barbara Kennedy
Planning Division
City of Carlsbad
1635 Faraday Avenue
Carlsbad, CA 92008

VIA ELECTRONIC MAIL
Barbara.Kennedy@carlsbadca.gov

**RE: TRIBAL COMMENT LETTER FOR THE DRAFT PROGRAM
ENVIRONMENTAL IMPACT REPORT FOR THE CITY OF
CARLSBAD SEWER MASTER PLAN AND CARLSBAD
MUNICIPAL WATER DISTRICT WATER AND RECYCLED
WATER MASTER PLAN UPDATES**

Dear Ms. Kennedy:

J-1.

We, the San Luis Rey Band of Mission Indians (“Tribe” or “SLR”) thank you for the opportunity to submit the following comments regarding the Draft Program Environmental Impact Report (“PEIR”) for the City of Carlsbad’s (“City’s”) Sewer Master Plan and Carlsbad Municipal Water District’s (“CMWD’s”) Water and Recycled Water Master Plan Updates.

J-2.

As you are already aware, we are a San Diego County tribe whose traditional territory encompasses the cities of Oceanside, Carlsbad, Vista, San Marcos and Escondido, as well as the communities of Fallbrook and Bonsall. We are resolute in the protection and preservation of our cultural resources.

It is important for the City to understand that the Tribe does not oppose the proposed improvements contemplated within the PEIR generally; however, we *are* passionately opposed to any plans that may damage or destroy any potentially significant cultural or sacred sites and human remains that may be located within the Capital Improvement Programs (“CIP’s”) proposed locations. Due to the fact that this PEIR will be the “master” environmental document for these projects and/or improvements, coupled with the understanding that some and/or all improvements/projects will require additional environmental reviews, such as Mitigated Negative Declarations, the Tribe feels it is important to incorporate specific policies and procedures now as they relate to the protection and preservation of our Native American cultural resources and not wait until

RESPONSES

- J-3. This comment states that comments will focus on the Draft EIR analysis of Native American cultural resources, and introduces the comments that are addressed in responses to comment J-4 through J-20.
- J-4. This comment states that the Draft EIR should require mitigation measure Cul-1 for CIP projects proposed within previously disturbed footprints that may extend into undeveloped area. The CIP projects identified in Table 4.4-2, CIP Projects Where Impacts are Minimized through Implementation of Project Design Features, as proposed in the Master Plans are located within previously disturbed areas. Therefore, these projects would not result in a potentially significant impact at the programmatic level. Should the footprint of any of the projects extend beyond the limits of the disturbed area, the project would be required to implement the measures listed in mitigation measure Cul-1.
- J-5. This comment states that Native American monitors should be utilized during all activities requiring a monitor. As discussed in Section 4.4.4.2 of the Draft EIR, Issue 1 – Historical and Archaeological Resources, all CIP projects that are proposed in undeveloped areas would result in a potentially significant impact and would be subject to mitigation measure Cul-1. In response to this comment, mitigation measure Cul-1 has been revised as follows to clarify the procedure that would be followed for these projects.

Cul-1 Cultural Resources Investigation. *For the CIP projects proposed in close proximity to a known cultural resource or projects that would result in ground-disturbing activities in a previously undisturbed area (Sewer CIP Projects SR-9, SR-12, SR-14, SR-19, SR-22, SR-23, N-3, and N-9; Water CIP Projects 10, 17, 47, 48, and 55; and Recycled Water Project ES7), a project-level cultural resources investigation shall be conducted by a qualified cultural resource professional who ~~minimally~~ meets the Secretary of the Interior’s Professional Qualifications Standards for Archaeology. The cultural resources investigation shall include:*

1. *A CIP project site-specific review of the records search data at the South Coastal Information Center shall be conducted to determine if the CIP project site has been subjected to a professional survey.*
 - a. *If a current cultural resources report addressing potential impacts on cultural resources is available, the City or CMWD shall implement the mitigation measures provided within the report. In the event that a current and valid report is not available or if the entirety of the CIP project site has not been professionally surveyed, then an updated records search shall be performed.*
 - b. *The City or CMWD shall contact the NAHC and local tribal governments for input on the project in order to identify any additional Native American resources that may not be included in the records search.*
2. *For those CIP project site(s) not addressed by a current cultural resources report (produced within five years of project proposal), a project-level Phase I Cultural Resources Survey shall be prepared. Updates for all resources encountered during the Phase I survey shall be recorded using Department of Parks and Recreation (DPR) 523 forms in accordance with all applicable regulations. Resources shall be evaluated for significance and eligibility for inclusion in all applicable historic registers using methods such as, but not limited to, subsurface testing and/or archival research. ~~The City or CMWD shall contact the NAHC and local tribal governments for input on the project in order to identify any additional Native American resources that may not be included in the records search. Any subsurface testing would be monitored by an appropriate Native American representative.~~*

COMMENTS

J-2.
cont

the individual improvements and/or projects are presented for review. Therefore, after our review of the PEIR, the Tribe believes that additional mitigation measures for cultural resources are justified and necessary to be in compliance with the California Environmental Quality Act (“CEQA”). Without the incorporation of the additional measures of mitigation for cultural resources, as detailed below, the Tribe firmly believes that the potential significant impacts associated with the construction of the projects on an individual and cumulative basis will not have been mitigated to reduce or eliminate the significant or potentially significant effects to our sacred cultural resources.

J-3.

Furthermore, the Tribe understands that the improvements and build outs envisioned in the PEIR will improve water and sewer infrastructures, as well as prepare for future demands on the City. The Tribe’s comments will be directed towards the PEIR’s analysis of the CIP’s potential adverse impact on our Native American cultural resources, proposed mitigation measures for those potential effects and alternatives the City should contemplate if the proposed mitigation measures are not deemed adequate by the Tribe.

I. THE PRESENCE OF A LUISEÑO NATIVE AMERICAN MONITOR DURING ALL EARTH DISTURBING ACTIVITIES IS JUSTIFIED, AND AS SUCH, NATIVE AMERICAN MONITORS SHOULD BE CONTRACTED WITH DURING THIS PROJECT.

J-4.

Luißeño Native American monitors should be utilized during ground and/or earth disturbing activities contemplated by the PEIR whereby previously disturbed areas will not be confined to their previously disturbed footprints and in locations that have not been developed. Simply stating in the PEIR that having a Native American monitor *may* be used by the City or CMWD to eliminate and/or reduce a significant impact on our sacred resources, is not enough. Having a Luißeño Native American monitor present during all ground disturbing activities should be a requirement just as having a cultural resource professional who meets the minimum standards of the U.S. Department of the Interior’s professional qualification standards will be required.

J-5.

Native American monitors are trained to perform different analysis of cultural resources than archaeologists. For instance, in the case of determining the significance of isotopes we believe adamantly that any determination as to whether the deposits are “non-significant” should be left to the archaeologist and the Native American monitor and that both should agree on the deposit’s insignificance. Both entities should agree due to the fact that each professional weighs the deposits differently based on their training and beliefs. An archaeologist looks at the deposits value for research purposes and its scientific worth. Whereas, a Native American monitor looks at the deposits importance as it relates to its religious significance and cultural relevance. Each opinion is equally important and both should be taken in equal consideration. Therefore, when including additional mitigation measures for the Project, it is the Tribe’s request that Native American monitors be accorded the same amount of respect for their training and

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3. *In the event that such resources are found to be historical resources pursuant to CEQA, potential adverse impacts must be analyzed as stated in PRC Sections 21084.1 and 21083.2(l). Suitable mitigation for significant effects on archaeological resources are outlined in Section 15126.4(b)(3). The City or CMWD shall be responsible for implementing the methods for eliminating or substantially reducing impacts on resources as recommended by the archeologist and in consultation with the Native American Tribe. Such methods could include, but are not limited to:*
 - a. *Planning construction to avoid archaeological sites;*
 - b. *Incorporation of sites within parks, greenspace, or other open space;*
 - c. *Capping or covering a site with a layer of soil before building on the site;*
 - d. *Deeding the site into a permanent conservation easement;*
 - e. *Excavation (Data Recovery) of archaeological resources; and/or*
 - f. *Construction monitoring by a qualified professional and, ~~if necessary,~~ appropriate Native American monitors as identified through ~~the information-scoping process and/or by~~ consultation with the NAHC or Native American Tribe. The monitor(s) shall be present at all pre-construction meetings.*
4. *If, as a result of Cul 1(3), it is determined that a CIP project site requires monitoring by a Native American Tribe, then the City or CMWD shall enter into a Pre-Excavation Agreement or Cultural Resource Treatment and Monitoring Agreement with the appropriate Native American Tribe prior to the commencement of earth disturbing activities.*
5. *If excavation (Data Recovery) is recommended as a result of Cul-1(3), all excavated Native American artifacts shall be repatriated to the Native American Tribe of Most Likely Descendant (MLD) rather than curated.*
6. *The results of the cultural resources investigation shall be compiled into a technical report or memorandum and submitted to the City or CMWD and the South Coastal Information Center.*

- J-6. This comment requests that Native American monitors be given the same authority to halt ground disturbing activities as archaeological monitors. It is assumed that the commenter is referring the cultural resources project design feature in Section 2.6.2 of the Draft EIR, Project Design Features, Cultural Resources, which requires construction activities to cease if evidence of an archaeological site or other suspected cultural resources is encountered.

The discussion in Section 4.4.4.2 has been revised as follows to clarify that consultation with the NAHC or Native American Tribe would be required as part of evaluation of the significance of the discovery.

If subsurface cultural resources are encountered during CIP project construction, or if evidence of an archaeological site or other suspected cultural resources are encountered, all ground-disturbing activity will cease within 100 feet of the resource. A qualified archaeologist will be retained by the City or CMWD to assess the find, and to determine whether the resource requires further study. The assessment shall include consultation with the NAHC or Native American Tribe. Any previously undiscovered resources found during construction will be recorded on appropriate Department of Parks and Recreation (DPR) 523 forms and evaluated by a qualified archaeologist retained by the City or CMWD for significance under all applicable regulatory criteria. No further grading will occur in the area of the discovery until the City and CMWD approves the measures to protect the resources. Any archaeological artifacts recovered as a

COMMENTS

- J-5. cont professional opinions in regards to the identification and protection of cultural resources as the archaeologist.
-
- J-6. Moreover, if cultural resources are discovered during construction, all earth-moving activity within and around the immediate discovery area must be diverted until the Native American monitor and the archaeologist can assess the nature and significance of the find. Quite simply, Native American monitors and archaeologists approach culturally sensitive finds very differently. Neither process of evaluation is more significant than the other; therefore both must be given the same amount of respect from the City and/or CMWD. We therefore request that Native American and archaeological monitors be given joint-authority to divert or halt ground disturbing operations when cultural resources are discovered so each may access the nature and significance of such find.
-
- A. The PEIR must state that a Native American monitor shall be present during all pre-grade and grading activities when the CIP is in undeveloped land and when the CIP improvements and/or projects excavate beyond the land's previously disturbed footprint.
- An area's status as being previous developed and/or disturbed no longer predicates whether inadvertent discoveries of Native American remains and/or cultural resources will or will not be made. The PEIR assumes that due to the high level of ground disturbance at the project site there is little to no potential for unknown buried archaeological resources to be found. Therefore impacts to archaeological and/or cultural resources would be less than significant. However, such pre-conceived notions can no longer be concluded. The previous development of an area, does not, in itself, refute the possibility that cultural resources, or archaeological resources, will be discovered during redevelopment activities.
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- J-7. As urban governments and other governing bodies endeavor into redevelopment projects today, the experience of finding "inadvertent discoveries" of sacred sites and/or Native American burial sites within previously developed urban areas is becoming more and more common place. These urban areas, such as in the cities of Los Angeles and San Diego, to name a couple, are not alone. In fact, inadvertent discoveries of Native American sacred artifacts have been discovered in North San Diego County within the past two years in a previously, heavily developed urban area that had been constructed in the early 1960's, as well as in previously agricultural-only properties. These sacred artifacts were found just below the surface during "redevelopment and reconstruction" activities, similar to what the City is proposing for this PEIR. Therefore, given the probable depths of excavation for this Project, the high number of sacred sites, and the close proximity to know habitation areas, potentially significantly adverse impacts and/or effects may occur if Native American monitors are not allowed to be present during earth disturbing activities.
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- J-8. Moreover, the PEIR's Programmatic Assessment to impacts on Native American cultural resources appear to be based solely on the outdated premise that discovery of

RESPONSES

result of mitigation will be donated to a qualified scientific institution approved by the City or CMWD where they would be afforded long-term preservation to allow future scientific study.

- J-7. This comment states that impacts related to CIP projects in previously disturbed areas should not be considered less than significant due to the potential for unknown resources, and monitoring should be required for all ground-disturbing construction activities. The Draft EIR acknowledges the potential for the discovery of unknown archaeological resources in Section 4.4.4.2 of the Draft EIR, Issue 1 – Historical and Archaeological Resources. As part of the analysis included in the EIR, a record search at the SCIC was conducted that included the all of the proposed CIP sites included in the Master Plans. As discussed on page 4.4-5 of the EIR, the record search examined all proposed sewer, water, and recycled water CIP project sites and adjacent lands within portions of Oceanside, Vista, and San Marcos. In addition, the City coordinated with local Native American Tribes for input for specific projects that may affect known cultural resources. The purpose of the record search and outreach was to identify those projects with the highest potential for adversely affecting cultural resources. Table 4.4-3 lists the cultural resources that may be affected by CIP project construction, and Table 4.4-4 identifies the projects with the potential to result in significant impacts to known archaeological resources or would occur in previously undisturbed areas.

The CIP projects listed in Table 4.4-2 would involve facilities that would be located entirely within existing disturbed and/or developed land. Archaeological resources in the development footprint would have been removed or destroyed by previous construction. Due to the low likelihood that resources would occur in disturbed areas and the speculative nature of potential impacts, impacts would be less than significant without mitigation. Further, the City and CMWD have committed to the project design feature included in Section 2.6.2 of the Draft EIR to protect these resources in the unlikely event of discovery.

The discussion of unknown resources on page 4.4-20 in Section 4.4.4.2 to has been revised as follows to clarify that the project design feature would be required for any unintentional discovery in previously undisturbed or disturbed areas. If, at the project level, it is determined that any of the CIP projects proposed in the Master Plans in disturbed areas would potentially include disturbance outside of previously disturbed area, the project would be required to implement mitigation measure Cul-1.

The alteration of known significant or unique archaeological resources may result in a loss of valuable information that could be gained from the resources, or prevent potentially eligible sites from being listed on a register of cultural resources. In the event that buried significant or unique cultural resources are discovered during construction, such resources could be damaged or destroyed, potentially resulting in significant impacts to cultural resources. The project design feature identified in Section 2.6.2 for unintentional disturbance of unknown resources would minimize impacts as a result of unintentional discovery in previously undisturbed areas. Though unlikely, this project design feature would also minimize impacts as a result of unintentional discovery in disturbed areas. However, due to the higher potential of encountering sensitive cultural resources in undisturbed areas, additional precautions are necessary. For these reasons, construction of the CIP projects listed in Table 4.4-4 would have the potential to result in significant impacts to archaeological resources.

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RESPONSES

- J-8. This comment reiterates the commenter's opinion that potential impacts to cultural resources in previously disturbed areas should not be considered less than significant. Refer to response to comment J-7.
- J-9. This comment reiterates the commenter's opinion that monitoring is required to reduce potential impacts of construction in disturbed areas to a less than significant level. Refer to response to comment J-7.
- J-10. This comment requests the Draft EIR to be revised to require a Native American monitor for all ground disturbing activities for the CIP projects listed in Table 4.4-4, CIP Projects with Potential to Result in Significant Impacts to Known Archeological Resources or Would Occur in Previously Undisturbed Areas. As discussed previously, the EIR conducted a record search to assess which CIP projects would have the highest likelihood of disturbing known cultural resources. As stated on page 4.4-13, the significance threshold used in the EIR for archeological resources states that a significant impact would occur if the project would cause a substantial adverse change in the significance of an archaeological resources as defined in CEQA Guidelines Section 15064.5. CIP projects that would be located entirely within disturbed areas would not result in a significant impact to cultural resources and would not require mitigation. Procedures that pertain to the accidental discovery are regulated by Health and Safety Code Sections 7050.5. Further, the City and CMWD has included a project design feature that pertains to the unintentional disturbance of human remains.

The mitigation measure for the CIP projects listed in Table 4.4-4, Cul-1, outlines a process to be implemented at the project-level to determine the methods for eliminating or substantially reducing impacts on cultural resources. Mitigation measure Cul-1 has been revised as shown in response to comment J-5 to clarify that consultation with the NAHC or Native American Tribe would be required throughout the process to determine the necessary project-specific measures. At the time, if recommended by the NAHC or Native American Tribe, monitoring would be required for construction.

COMMENTS

J-8.
cont.

prehistoric habitation will only occur in previously undisturbed and/or undeveloped land. As stated above, recent history supports the opposite of that understanding and that just because a piece of land had been previously developed upon or used for such purposes as agricultural uses, that those properties should not be summarily dismissed as possibly containing evidence of our Native American history.

J-9.

In fact, the Tribe believes that the Programmatic Assessment in regards to CIP projects where potential impacts have been minimized through implementation of Project Design Features is inaccurate and additional mitigation measures should be implemented. It has been the Tribe's and tribe's all across California's experience that just because an area has been "previously disturbed" does not automatically mean that no cultural resources will be impacted. In fact, only if the CIP improvement and/or project propose to stay within the immediate confines of the previously disturbed footprint of the existing structure and/or infrastructure, then the theories expressed in Table 4.4-2 are probable.

Therefore, the Tribe respectfully requests that the Programmatic Analysis, as reflected in Table 4.4-2 of the PEIR, be re-visited and revised to include the presence of a Luiseño Native American monitor whereby the original analysis was based purely on this false reasoning.

B. The CIP Projects And/Or Improvements With Acknowledged Potential To Result In Significant Impacts To Our Native American Cultural Resources Must Require A Luiseño Native American Monitor At All Ground Disturbing Activities And Not Limited To When A Native American Cultural Resource Is Located.

J-10.

Alternatively, Table 4.4-4 in the PEIR on page 4.4-19 describes CIP projects with the potential to result in significant impacts to known archaeological resources or that "would occur" in previously undisturbed areas. As stated in the PEIR on page 4.4-19, "[In] CIP projects that are in close proximity to known archaeological resources, there is a high potential for CIP projects that would occur within undeveloped areas to encounter unrecorded archaeological resources due to the frequency of known and recorded archaeological sites throughout the service areas. Ground disturbing activities, such as clearing, trenching, and grading have the potential to damage or destroy archaeological resources that may be present on or below the ground surface, particularly in areas that have not previously been disturbed. Any such unrecorded prehistoric archaeological sites may require research or testing programs to determine their eligibility for inclusion in registers of significant resources."

The Tribe agrees with this portion of the Programmatic Assessment; however, we do not agree that specific mitigation measures, such as incorporating the presence of a Native American monitor during all ground disturbing activities should be presented as being optional to the City and CMWD as a possible mitigation measure. Instead, the PEIR should firmly state the City's position of requiring a Native American monitor to be present during ground disturbing activities unless otherwise determined in a separate environmental document.

RESPONSES

- J-11. This comment requests that the reference to current cultural resources reports in mitigation measure Cul-1 be revised to define current as produced within the last five years. Mitigation measure Cul-1 has been revised as shown in response to comment J-5 in response to this comment.
- J-12. This comment states that a Native American monitor must be present for all subsurface surveys and/or testing, and Native American monitoring should be incorporated as a project design feature. Refer to responses to comments J-7 and J-10.
- J-13. This comment states that a Native American monitor should be required during all ground disturbing activities because without a monitor it is unrealistic that construction would comply with PRC Section 5097.98 and California State Health and Safety Code Section 7050.5 if Native American remains or ceremonial items are discovered. As discussed in Section 4.4.4.3 of the Draft EIR, Issue 2: Human Remains, one known and previously recorded archaeological site in the project area included a human burial. Future CIP projects in the proximity of this, or any, known significant cultural site would be required to implement mitigation measure Cul-1, which requires an appropriate Native American monitor as identified through consultation with the NAHC or Native American Tribe. Therefore, Native American monitoring is already required for the projects that are most likely to encounter human remains or ceremonial items.

The Draft EIR acknowledges that ground-disturbing construction activities of any CIP project would have the potential to unintentionally disturb human remains. Existing state regulations PRC Section 5097.98 and California State Health and Safety Code Section 7050.5 have been adopted for the purpose of minimizing impacts to unknown archaeological resources. All CIP projects, including CIP projects in areas where potentially significant cultural resources have not been identified, would be required to comply with these ordinances. These regulations do not require monitoring for ground-disturbing activities if human remain have not been uncovered.

COMMENTS

II. THE TRIBE DISAGREES WITH THE PEIR'S MITIGATION MEASURE FOR CULTURAL RESOURCE INVESTIGATION CUL-1 AND FINDS CUL-1 INSUFFICIENT.

J-11. According to the PEIR's Mitigation Measure CUL-1, a "current" literature review will need to be conducted by a cultural resource professional. The use of the term "current" is too broad. The Tribe proposes that this particular language been changed to reflect that all reports must have been produced within the last five (5) years. If the reports are older than five years and relied upon by the City or CMWD, there may be newly discovered resources that exist without the City or CMWD being aware.

J-12. In addition, if a pedestrian survey or subsurface survey and/or testing is conducted, a Luiseño Native American monitor must be present. This would also necessarily include any exploratory digs performed by bidding contractors prior to the commencement of any of the CIP's. The Luiseño Native American monitor's presence should not be viewed as only necessary when our Native American cultural resources are found, as indicated in the PEIR, Cul-1, Section 3, but should be incorporated within the "master" mitigation measures. Without the incorporation of this very specific measure of mitigation for cultural resources, the Tribe firmly believes that the potential significant impacts associated with the construction of the projects on an individual and cumulative basis will not have been mitigated to reduce or eliminate the significant or potentially significant effects to our sacred cultural resources.

III. THE TRIBE DISAGREES WITH THE PEIR'S MITIGATION MEASURE FOR THE TREATMENT OF HUMAN REMAINS AND FINDS ITS EXPECTATION OF SUFFICIENCY UNREALISTIC

J-13. The Tribe is opposed to the unrealistic suggestion in the PEIR that in the event that Native American remains are encountered during ground disturbing activities, all work must stop until identification of the suspected remains is completed in accordance with California Health and Safety Code Section 7050.5 and California Public Resources Code Section 5097.98, when there is no "master" mitigation measure specifically requiring the presence of a Luiseño Native American monitor be present on the job site while the ground disturbances are occurring. The PEIR, in essence, is suggesting that a lay person, with no training in identification of Luiseño ceremonial items, tools, human remains and/or associate burials goods, will be able to identify those items and stop construction so they can be further evaluated is reckless. A Native American monitor is trained to evaluate a deposit's importance as it relates to its religious significance and cultural relevance. Our Luiseño Native American monitors are experienced in the recognition of cremated human remains and associated grave goods. For these practical reasons, the Tribe strenuously recommends a Luiseño Native American monitor be present during the ground disturbing activities associated with this project.

RESPONSES

- J-14. This comment requests that the City and CMWD comment to enter into a Pre-Excavation Agreement, or Cultural Resources Treatment and Monitoring Agreement, prior to any commencement of earth disturbing activities. Refer to responses J-7 and J-10. Mitigation measure Cul-1 has been revised as shown in response to comment J-5 to clarify that consultation with the NAHC or Native American Tribe would be required throughout the process to determine the necessary project-specific measures. At this time, if recommended by the NAHC or Native American Tribe, a Pre-Excavation Agreement would be required for construction. The commenter's suggestion has been incorporated in mitigation measure Cul-1, as shown in response to comment J-5.
- J-15. This comment requests that any future mitigation measures or permits for CIP projects require that all uncovered artifacts of Native American cultural importance be returned to the Tribe or Most Likely Descendant rather than curated. This request has been incorporated into mitigation measure Cul-1, as shown in response to comment J-5.
- J-16. This comment requests that pre-construction meetings for CIP projects that would involve archeological monitoring be required to have the Native American monitor present. This request has been incorporated into mitigation measure Cul-1, as shown in response to comment J-5.

COMMENTS

IV. A PRE-EXCAVATION AGREEMENT MUST BE COMPLETED BETWEEN THE CITY AND/OR CMWD AND THE TRIBE AS AN ADDITIONAL MEASURE OF MITIGATION

J-14. The Tribe requests that the City and/or CMWD enter into a Pre-Excavation Agreement, otherwise known as a Cultural Resources Treatment and Monitoring Agreement, with the Tribe prior to any commencement of earth disturbing activities. This agreement will contain provisions to address the proper treatment of any cultural resources or Native American human remains inadvertently uncovered during the course of the Project. The Pre-Excavation Agreement should be entered into prior to any ground-disturbing activities for this Project. The agreement will outline the roles and powers of the Native American monitors and the archaeologist, if applicable. Such an agreement is necessary, as the City may be aware, to guarantee the proper treatment of cultural resources or Native American human remains displaced during a project development. The Tribe requests that the Pre-Excavation Agreement be an additional mitigation measure, or in the alternative, a prerequisite to any City permits being issued for the CIP's associated with this PEIR.

A. The PEIR Should Reflect That Any and All Uncovered Artifacts of Native American Cultural Importance Should Be Returned to the Tribe, or the Most Likely Descendent, if applicable, and NOT BE CURATED.

J-15. It is the religious belief, custom, and practice of the Tribe to repatriate all cultural resources that are unearthed during ground disturbing activities. Therefore, any plans to curate any such items would blatantly disregard the respect due to these cultural resources. Instead, any such items should be returned to the Tribe, or the Most Likely Descendant, if applicable. The CIP's associated with this PEIR are located within the traditional and aboriginal territory of our Tribe and our sister tribes. The Tribe considers all cultural items found in this area to belong to their ancestors, and the ancestors of their sister tribes. Hence, any additional mitigation measures, or in the alternative, permits for the CIP's associated with this PEIR should reflect that any and all uncovered artifacts of Native American cultural importance should be returned to the Tribe, or the Most Likely Descendant, if applicable, and not be curated by the City or CMWD.

B. The Luiseño Native American Monitor Shall Be Present at the Project's Preconstruction Meeting.

J-16. In addition, the Luiseño Native American monitor must be present at all CIP's preconstruction meetings whereby a Native American monitor is required to be present for that CIP's mitigation measures. The Luiseño Native American monitor must be permitted to consult with relevant contractors concerning excavation schedules and safety issues, as well as consult with the Cultural Resource Professional, concerning the proposed archaeological techniques and/or strategies for the Project. Therefore, as an additional mitigation measure and/or pre-requisite requirement to the City issuing the necessary permits for the CIP's contemplated in the PEIR, it shall be required that the

RESPONSES

- J-17. This comment states that avoidance of mitigation measures should be considered as the primary mitigation measure for archaeological resources, rather than data recovery. Mitigation measure Cul-1 identifies several options for mitigation that would preserve resources in place, as shown in response to comment J-5. The appropriate method for eliminating or substantially reducing impacts on resources at the project level would be determined through consultation with a qualified archeologist and/or in consultation with the Native American Tribe.
- J-18. This comment requests the Tribe be notified and consulted with in the event of discovery of cultural resources during construction, and expresses the Tribe's preference for avoidance of resources. As discussed in response to comments J-5 and J-6, mitigation measure Cul-1 and the cultural resources project design feature have been revised to clarify that the Native American Tribe would be contacted and consulted with for any discovery of cultural resources.
- J-19. This comment states that a Native American monitor must be present during any testing or cataloguing of removed resources and, if resources would not be removed, the monitor may collect the resources. Mitigation measure Cul-1 has been revised as shown in response to comment J-5 to clarify that consultation with the NAHC or Native American Tribe would be required throughout the process to determine the necessary project-specific measures.

COMMENTS

J-16. cont. Luiseño Native American monitor be present during the Project's preconstruction meeting.

V. IF UNIQUE ARCHAEOLOGICAL RESOURCES AND/OR SACRED SITES ARE INADVERTENTLY DISCOVERED DURING GROUND DISTURBING ACTIVITIES, THEN AVOIDANCE IS THE PREFERRED MITIGATION MEASURE BY THE TRIBE AND A RE-DESIGN OF THE CIP SHOULD BE SERIOUSLY CONSIDERED AND WEIGHED BY THE CITY AND CMWD AS A VIABLE ALTERNATIVE.

J-17. Many times when a unique archaeological resource or sacred site is discovered inadvertently during ground disturbing activities, the lead agency and/or contracted archaeologist's first response and solution is to initiate a data recovery plan. A data recovery plan should not be the first and preferred mitigation measure. Instead, avoidance of the sacred resource should be the primary mitigation measure contemplated by the City and CMWD. As such, re-design of the CIP then should be seriously considered and weighed by the City and CMWD as a viable alternative to the proposed CIP. Avoidance as a primary mitigation measure is supported by CEQA, the Native American Heritage Commission and the Luiseño community. Therefore, the Tribe respectfully requests that the PEIR reflect the City's commitment to protecting unique archaeological resources and/or sacred sites through avoidance and project re-design when feasible.

VI. THE TRIBE MUST BE CONSULTED IF A SIGNIFICANT CULTURAL RESOURCE AND/OR UNIQUE ARCHAEOLOGICAL RESOURCE IS DISCOVERED DURING GROUND DISTURBING ACTIVITIES.

J-18. If a significant cultural resource and/or unique archaeological resource are unearthed during ground disturbing activities for this Project, the Tribe respectfully requests that they be notified and consulted with in regards to the respectful and dignified treatment of those resources. The Tribe's preference will always be for avoidance and that the resource be protected and preserved in perpetuity. If however, a data recovery plan is authorized by the City as the Lead Agency, the Tribe respectfully requests that as a condition of any authorization, the Tribe be consulted regarding the drafting and finalization of any such recovery.

J-19. In addition, when cultural resources are discovered during the Project, if the archaeologist collects such resources, a Luiseño Native American monitor must be present during any testing or cataloging of those resources. Moreover, if the archaeologist does not collect the cultural resources that are unearthed during the ground disturbing activities, the Luiseño Native American monitor, may in their discretion, collect said resources and provide them to the Tribe for respectful and dignified treatment in accordance with the Tribe's cultural and spiritual traditions.

RESPONSES

- J-20. This comment states that in addition to compliance with PRC Section 5097.98 and California State Health and Safety Code Section 7050.5, an additional measure be added to require Native American remains to be kept in situ, in a secure location near the discovery site. PRC Section 5097.98 requires that the area surrounding Native American human remains, if discovered, be protected from being damaged or disturbed. California State Health and Safety Code Section 7050.5 prohibits the excavation or disturbance of remains, if discovered. Therefore, these regulations include protections for human remains, including keeping the remains in situ, and additional requirements are not necessary to reduce potential impacts to human remains to a less than significant level.
- J-21. This comment concludes the letter and requests that the mitigation measures identified in the letter be included in the Final EIR. Refer to responses to comments J-4 through J-20 regarding the recommended mitigation measures.

COMMENTS

J-20. Lastly, if Native American remains and/or associated burial goods are unearthed during the Project, and prior to a Most Likely Descendant being determined by the Native American Heritage Commission, it is the Tribe's request that the ancestral remains be kept *in situ* (in place), or in a secure location in close proximity to their discovery and that a forensic anthropologist perform their analysis of the remains on-site in the presence of a Luiseño Native American monitor. Any transportation of the ancestral remains would be considered by the Tribe as disrespectful and undignified treatment. Therefore, the Tribe requests that in addition to the strict adherence to the protocol stated in the California Health and Safety Code Section 7050.5 and California Public Resource Code Section 5097.98, if Native American remains are discovered, then the Native American remains shall be kept in situ, or in a secure location in close proximity to where they were found, and that the analysis of the remains occur only on-site in the presence of a Luiseño Native American monitor.

VII. CONCLUSION

J-21. In conclusion, the San Luis Rey Band of Mission Indians appreciates this opportunity to provide the City of Carlsbad with our comments on the Draft Program Environmental Impact Report for the City of Carlsbad Sewer Master Plan and Carlsbad Municipal Water District's Water and Recycled Water Master Plan Updates. The Tribe hopes the City will adopt the mitigation measures for Cultural Resources as herein requested and that they will appear in the Final PEIR. As always, we look forward to working with the City to guarantee that the requirements of the CEQA are rigorously applied to this PEIR and all proposed individual Capital Improvement programs. We thank you for your continuing assistance in protecting our invaluable Luiseño cultural resources.

Sincerely,



Merri Lopez-Keifer
Tribal Legal Counsel

cc: Mel Vernon, SLR Captain
Carmen Mojado, SLR Secretary of Government Relations and President of Saving Sacred Sites

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ATTACHMENT A
City of Carlsbad Utilities Department Letter
dated September 24, 2012



www.carlsbadca.gov

September 24, 2012

Ms. Diane Nygaard
Preserve Calavera
5020 Nighthawk Way
Oceanside, CA 92056

SUBJECT: City of Carlsbad Sewer Master Plan and Carlsbad Municipal Water District Water and Recycled Water Master Plans Update, Draft Program Environmental Impact Report, July 2012, SCH 2012021006

Dear Ms. Nygaard:

The Utilities Department is responding to your comment letter dated September 4, 2012 regarding the subject master plans and Program EIR. Please note that your comments related to the adequacy of the Program EIR and Mitigation Measures will be responded to separately in the EIR Response to Comments. Those comments will be sent at least 10 days before the public hearing for the subject master plans and Program EIR. Your comments on the Sewer, Water and Recycled Water Master Plans are listed below followed by our response.

Sewer Master Plan

1. ***Comment 1: Page 2-3 states that the existing Vista/Carlsbad (V/C) interceptor needs additional capacity for "629" units for the future Quarry Creek project. The approved reclamation plan for this site included placing sewer line under the creek to avoid future disturbance of the creek corridor. Since then there has been a project application filed for the development of this site for 656 units. Please confirm that the capacity is sufficient for this higher number of units if necessary and that this can be accommodated with no further disturbance of the creek channel as was assumed in the Reclamation Plan. Such disturbance would be a significant impact that has not been identified or mitigated.***

Also Exhibit 2 of Appendix A shows the 100 acre reclamation part of the site as mixed use and the 60 acre panhandle as commercial/industrial/public. The application for this project shows both areas as med/hi density residential. These residential uses have different flow rates and peak demand times that what is shown in the Plan. This is the only large project possible in this LFMZ and consequently this part of the upper watershed. Please verify that the calculations included for demand/flows from this project as now proposed are within what was projected in the MP.

Ms. Nygaard
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1.
 cont.

RESPONSE: The generated wastewater flow from the proposed Quarry Creek Project was estimated and submitted for our review in a sewer system report prepared for the Quarry Creek Master Plan EIR (SCH #: 2012021039). Based on City of Carlsbad standard design criteria and the preliminary design shown for the proposed gravity flow sewer pipelines there is sufficient capacity for the generated flows in conformance with the updated sewer master plan in the Vista/Carlsbad Interceptor sewer which would be receiving the wastewater flow. The adequacy of the Vista/Carlsbad Interceptor sewer to convey future projected flows is addressed in Section 5.7.1 of Chapter 5.

The proposed sewer pipeline at the creek crossing is to be suspended on a proposed bridge located in Street "B". A profile drawing of the proposed sewer pipeline shows that it will be placed low enough to provide for sewer lateral connections along its length and also remain above the 100-year water surface elevation at the bridge crossing.

***Comment 2:** Page 3-9 discusses the error rate in projecting flows and states that a 3% error in predicting upstream or downstream flows will produce a 20% error rate in the Carlsbad flows. It also identifies the Buena Vista line as the one with highest flows and presumably the greatest potential for error. Please clarify what will be done to update these projections and minimize the effect of these error rates as either high or low errors could result in additional impacts. We are particularly concerned about changes to this line through the Buena Vista Creek Valley as this is one of three sewer lines affecting this small area and all have impacts causing substantial cumulative impacts to this site.*

2.

RESPONSE: The intent of the paragraph on this page is to demonstrate how Carlsbad's sewage flows are determined and the importance of proper meter calibration within Encina Wastewater Authority's flow meter network as it relates to the calculation and billing of sewage treatment costs to Carlsbad. The two main points being presented in the last paragraph of page 3-8 are as follows:

From Figure 3-7, it is apparent that Carlsbad flows comprise a minority of the total flows (20 percent or less) in the Buena, Vallecitos and NB Interceptors; and

Because Carlsbad flows are calculated by subtracting upstream and downstream flow meter readings, the resultant flows are dependent on the accuracy of all the meters.

Because Carlsbad's sewage flow is considerably less than the flow being contributed from the other agencies in the interceptor sewers noted above, a small error in the flow meter reading of the total flow will have a larger percentage impact to the flow being calculated and billed to Carlsbad. However, in the Vista/Carlsbad Interceptor Sewer, the flow distribution between the Vista and Carlsbad is closer to 50% each. Therefore, any error in the flow meter will be more evenly distributed to each city. The Encina Wastewater Authority flow meters are regularly calibrated to ensure that the total flow being measured is correct.

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Comment 3: *The MP identifies several septic system areas remaining in the city through the 2035 build out. Several of these are close to sensitive areas such as Agua Hedionda and Buena Vista Lagoons and the Kato property which also has wetlands and is a key link in the regional wildlife corridor and is targeted for a potential open space acquisition. There is nothing in the MP that addresses either the risk of continuing with such septic systems, or potential impact if they were to be added to the regular system. These systems are in watersheds that are already impaired for bacteria. We are aware of problems downstream from an Oceanside septic system where current monitoring procedures are inadequate to determine if the septic system is contributing to downstream contamination (per city staff expensive DNA testing is required). Please clarify why such septic system are remaining and assess potential impacts of leaving them in place or having them join the regular sewer system. This should be part of alternatives analysis for the project.*

3. **RESPONSE:** The sewer master plan flow projections assume that all lots currently using private onsite septic systems will ultimately be connected to the nearest public sewer pipeline. For larger parcels that currently have only one or two homes on an existing private septic system, such as Kato, it is anticipated that the larger parcel will be eventually developed in accordance with the City's General Plan and the maximum number of Equivalent Dwelling Units (EDU) for those remaining parcels was used to model the sewer system capacity with the estimated additional flow.

The City of Carlsbad's Sewer Ordinance does not require residents on an existing septic system to connect to the public sewer system when it is available. Additionally, private septic sewer systems are regulated by the San Diego County Department of Environmental Health. A property owner has a legal right to continue using their existing private septic system until they choose to connect to the public sewer or the San Diego County Department of Environmental Health determines that the parcel no longer meets the requirements for the continued use of a private onsite septic system.

Water Master Plan

4. **Comment 4:** *Page 1-6 and others identifies that the computations for projected water demand are "conservative" and do not reflect future conservation as will be required by SB7- 2009 ie reducing per capita water use by 20% by 2020. It sounds like this will be addressed separately but it in fact should be considered as part of this program or it could be considered piecemealing of impacts. The combined impacts could be greater than if they were properly considered together.*

RESPONSE: CMWD's target per capita water use reduction for the 2020 Department of Water Resources compliance goal was determined in CMWD's adopted 2010 Urban Water Management Plan and then this information was included in the 2012 water master plan update. Based on a 15 year analysis, the annual daily per capita water use for CMWD is 256.6 gallons per capita per day (gpcd). The 20 percent reduction in per capita demand reduces this to 205.3 gpcd. In 2010 CMWD was already below the 2020 target. However, this 2010 level of

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water use may be temporary and a partial rebound to prior per capita water use levels may occur. CMWD's approach to meeting the 2020 per capita water use target has several elements consisting of increased saturation into the customer base low flow plumbing devices and fixtures, continued implementation of demand management measures, and the water use reductions that occur with the increased purchase cost of water. Recycled water is excluded from gross water use in determining per capita water use according to the Department of Water Resources guidance.

4.
 cont.

The updated 2012 water master plan addressed the water system facilities required for build-out of the service area. The water demand analysis was performed on a conservative basis to be certain that the water supply and distribution system facilities are adequately sized to meet the projected water demands at build out. As was noted in the 2012 water master plan, the analysis also included the condition where ultimate water demands would be lower under the assumption that on a per capita basis, the objective of a 20% reduction by 2020 was achieved at build out. It was concluded that there would be a reduction in ultimate storage and pumping capacity in the range of 1 million gallons per day (MGD). The master plan further noted that the reduction to the ultimate demand at build out does not appreciably alter the capacity of CMWD's ultimate distribution system facilities over the entire service area. Since storage capacity is now in place sufficient to meet build out demands, the only impact is to the capacity of one future pump at the Maerkle Pump station. The CIP recommendation is for this pump to be selected and installed in the years beginning in 2016 through 2020.

Comment 5: Tables 4-4 and 4-5 include different horizon years and fail to confirm that the 20% reduction by 2020 is being achieved. Please correct these by showing comparisons that verify the 20% reduction is achieved and by showing comparison at the buildout year of 2035.

5.

RESPONSE: The Planning Horizon shown in Table 4-4 and Table 4-5 are the same which is 2050. Table 4-4 shows SANDAG data for population, housing units, persons per household, and employment with detailed SANDAG information provided in Appendix B. Table 4-5 shows potable water demand only. The potable water demands were calculated in the adopted 2010 Urban Water Management Plan and inserted into the 2012 water master plan.

As noted in Section 4.2.3 of the 2012 water master plan, in order to develop long-term facility plans, water demand projections beyond 2035 were developed using SANDAG's population projections for 2050. The increment of growth in population, housing units, and employment beyond 2035 is quite modest, and likewise only a very modest increase in demand from 2035 to 2050 is projected (i.e. approximately 1 MGD). Please refer to response on Comment 4 for discussion on the DWR's 20% reduction by 2020.

6.

Comment 6: Page 4-15 describes a 1991 study of the Cannon Well Field and that the safe yield was estimated as 400 AFY. It was noted that there currently is only one well in this field at Rancho Carlsbad with an estimated use of 100 AFY. This study identified several potential adverse impacts from excessive pumping from this field but says this could be addressed

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through a future CMWD program of scheduled observations and monitoring. Since there is already a well in place please clarify what observations and monitoring are now taking place that assure the safe yield is not being exceeded and that there are no adverse impact as discussed in the study .

6. cont. RESPONSE: There are actually more existing wells in place at this location. However, only one well is being operated at this time. The well is privately operated by the Rancho Carlsbad HOA only, and is used to supply water for their onsite landscaping and the adjacent private golf course irrigation. The groundwater basin where the well is located is not adjudicated. The Department of Water Resources may be provided data by the Rancho Carlsbad HOA, but otherwise no studies or ongoing monitoring have been performed in recent years by CMWD to verify safe yield or other impacts from this privately operated well.

CMWD operated all wells in this area until the early 1960's, but then ceased their operation. The master plan notes that CMWD could begin the process for a formal application for groundwater at this location. When this occurs CMWD will need to pursue more detailed hydrogeologic, and water quality investigations to develop information on the groundwater basin, impacts from any future groundwater pumping operation, and the long term viability of this local source of water. In conclusion, the 2012 water master plan has established a budget to plan, design, and potentially implement a small well water supply and treatment project at this location which is tentatively scheduled to occur in the years 2012 through 2015 (studies) and 2021 thorough 2030 for construction.

Comment 7: *The Plan notes that there are permits for surface water take of 150 AF for Calavera Creek for recreation and fire and 25 AF for Agua Hedionda Creek. Pleased identify what the historic surface water takes for each of these permits has been and describe the monitoring/reporting system in place to assure that these amounts are not exceeded.*

7. RESPONSE: CMWD submits a report annually to the Department of Water Resources on uses of surface water within its service area. For Calavera Creek a surface dam and water treatment plant was constructed to provide drinking water to Carlsbad. However, the water treatment plant was dismantled in the 1960's and no diversions have taken place for many years. For Agua Hedionda Creek Maerkle Dam was constructed in 1962 and captured local runoff. In 1995 the CMWD placed a cover over Maerkle Dam reservoir which precluded runoff from being captured, and the runoff is now directed into the creek.

8. Comment 8: *Page 7-20 states "Should the CMWD continue to experience chronic water quality problems in and around the La Costa Lo Tank service area it may want to consider eliminating the storage tank..." Please clarify what the threshold is for considering corrective action for this known water quality problem area? It sounds like some corrective action should be included in the Plan and failure to do so will result in adverse water quality impacts that have not been addressed. Furthermore this is also a project alternative that should have been considered as part of the Alternatives Analysis.*

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8.
 cont.

RESPONSE: Water quality is monitored on a daily basis at all locations in the distribution system to verify compliance with State standards. The La Costa Lo Tank has been in operation since 1969. Water Operations observed that under current operations the water stored in the tank was remaining in the tank over long periods of time because of relatively low demand at this location. These concerns are listed in the 2012 water master plan in Section 7.6.1. The 2012 water master plan update investigated this condition through a calibrated computer model analysis. The alternatives were analyzed and concluded that with some distribution system modifications the removal of the tank from the water distribution system could be accommodated which would resolve the current condition. However, it was noted that there would be a loss of 1.5 million gallons of storage capacity and a corresponding reduction in supply reliability to the immediate service area by elimination of emergency storage in the tank. The La Costa Lo tank can continue to be part of the distribution system by Water Operations continuing with their current approach to maintaining the water quality in the tank, or it can be removed, therefore, reducing operating cost.

Comment 9: Page 7-21 includes a recommendation to consider a formal Asset Management Analysis to extend the service life of facility components. There is no indication as to whether this recommendation has been accepted and how this might affect the components or timing of the Plan. Please clarify.

9.

RESPONSE: To maintain reliability at a sustainable cost, the Utilities department is in the process of developing and implementing an Asset Management Plan with the goal of providing a sound asset management foundation for the Utilities department to proactively manage the potable water, recycled water, sewer, and storm drain assets. The Plan will also integrate data from the City's existing Computer Maintenance Management System (CMMS), Geographical Information System (GIS), Interactive Fund Accounting System (IFAS), and other databases with the subject master plan updates. These existing databases and plans will be reviewed as to the standards used for estimating the remaining useful life of various assets, to propose recommended future capital improvement program projects, to prepare project cost estimates, and to provide adequate funding for replacement of facilities. The City Council will be considering the use of a consultant to assist staff in the near future.

10.

Comment 10: Page 7-30 recommends further evaluation of staffing needs because the preliminary analysis concludes either staff are extremely efficient, the relatively young age of facilities reduces staffing needs, or the agency is substantially understaffed. Failure to provide adequate staffing could result in increased system failures causing indirect impacts that have not been addressed. Please clarify if such a staffing analysis will be done or what other actions will be taken to assure system monitoring and maintenance will be carried out in conformance with the Plan.

RESPONSE: The 2012 water master plan update will be presented to the City Council/Board for adoption, and the findings regarding staffing will also be presented. The findings in the updated

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10.
 cont.

master plan are based on guidelines from the American Water Works Association (a national organization) and are not detailed for CMWD's actual operation and maintenance activities.

The City is now performing a staffing review of each of the City's departments. The Parks and Recreation department review has been completed and recommendations were submitted to the City council in July 2012. The Transportation department is now being reviewed and findings and recommendations are tentatively scheduled to be submitted sometime before the end of 2012. As of this date, the time frame for review of the Utilities department has not been determined, but it will occur in the near future. Findings from the department review will be considered by the City Council which will then be used in determining appropriate staffing levels for water operations.

11.

Recycled Water

Comment 11: *Page ES-6 notes that about 50% of the projected increase in demand will be from outside the Carlsbad service area and that currently about 20% of the water demand is met with recycled water and at build-out this will increase to 27%. We could find no explanation for how this shift effects the required per capita reduction of water use of 20% by 2020- especially if a good part of this is going to residents outside of Carlsbad. Please clarify.*

RESPONSE: Recycled Water that would be wholesaled to adjacent water agencies would have no effect on the per capita reduction of water use within the CMWD service area. Please refer to our response to Comment 4 for a discussion on per capita reduction in potable water demand.

12.

Comment 12: *Page 1-5 identifies project objectives. Not one of these is related to reducing the per capita use of freshwater which it seems should be one of the primary objectives for this entire plan.*

RESPONSE: Refer to response to Comment 4 for a discussion on per capita reduction of potable water demand for the CMWD service area. In addition, refer to the adopted 2010 CMWD Urban Water Management Plan which identifies how CMWD will meet the target per capita water use reduction.

The use of recycled water will correspondingly reduce the total amount of imported water that CMWD purchases and delivers to its customers. The recycled water also provides a local supply of water to CMWD and potentially this source is lower in cost than the imported water supply. The recycled water master plan provides updated information on the potential uses and demands for recycled water and provides a cost effective phased approach to expand the recycled water system.

13.

Comment 13: *Page 2-21 notes that the La Costa golf course will reduce irrigation of turf using recycled water, but will be using potable water for irrigation of greens and tees. Please clarify how policies would allow such a change in water use since it would seem this is moving the*

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wrong direction.

13.
 cont.

RESPONSE: As noted in Section 2.7.5, the La Costa Golf Course currently blends the recycled water with potable water in order to reduce the total dissolved solids (TDS) concentrations. The grass grown on the tees and greens is usually a hybrid type cut short creating stress on the grass. High TDS concentrations creates additional stress with unsatisfactory conditions. La Costa will be upgrading its golf course irrigation system so it can irrigate the tees and greens with potable water, therefore they would eliminate the need to blend their purchased recycled water with potable water which is presently used on the entire golf course. The new irrigation system would be similar to newer golf courses such as Carlsbad's Crossings Golf Course and the Avira golf course, and result in less potable water being used on the La Costa golf course.

The changes being made at the La Costa golf course to reduce the amount of recycled water they need to purchase is directly related to removing turf.

Comment 14: *Figure 3-4 shows the map of existing recycled water customers. Comparing this to the map of future customers indicates that almost none of the new customers that will be served by expansion of the lines live in Carlsbad. The costs for this expansion will be borne by Carlsbad residents, but the water will go outside the city. Since utilities pass costs on to ratepayers please clarify how this will work.*

14.

RESPONSE: Figure 3-4 shows the map of existing recycled water customers. The Potential Large Recycled Water Customers are shown on Figure 3.9. The Master Plan identified 161 Potential Large Recycled Water Customers, and only 33 were identified as being outside CMWD's Boundary and 15 were recommended to be included in the Ultimate System. A detail list of Customer Database can be found in Appendix "C". At build out, approximately 70 percent of the demand will be within the CMWD service area. If purchase agreements with agencies outside of CMWD can be approved then the operating cost to CMWD's customers will be lowered because of economy of scale. The unit cost for recycled water to CMWD's customers will be reduced by increasing total demand by up to 30 percent.

15.

Comment 15: *One of the issues with supply is the diurnal variation in use for individual customers. Some like golf courses typically irrigate 12 hours per day but others typically irrigate within 3 hours in the early evening. Page 3-14 states "CMWD may need to implement forms of demand management to better utilize infrastructure".... And later suggests improved on-site storage, particularly for users like golf courses. Since policy actions like this could reduce the need for expanded facilities, and the associated adverse environmental impacts of such facilities- please clarify whether such policies are assumed to be included as this should be part of consideration of how to reduce project associated adverse impacts.*

RESPONSE: CMWD has a current policy of requiring recycled water irrigation to occur only between the hours of 10:00 pm to 6:00 am to limit accidental direct contact with recycled water. The updated Master Plan is based on allowing large users to refill their onsite ponds

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15. cont. anytime of the day to help reduce peak demands. However, the improvements included in the master plan are designed around current policy requirements for operation. To reduce peak demands substantially would require construction of a large amount of storage. The master plan determined that the cost of constructing a sufficient amount of additional storage to have an impact on peak irrigation demands would be cost prohibitive.

Comment 16: *Page 3-16 implies there will be no agricultural uses at build-out. Given increasing emphasis on eating locally produced food, push for community gardens and numerous programs to increase agricultural uses one wonders if this is realistic. Please include further discussion of this issue and how changing circumstances might affect continuation of local agriculture- and the resultant impact on the use of water/recycled water.*

16. **RESPONSE:** The Flower Fields are an existing recycled water customer that is expected to remain on Recycled Water in the agriculture category. However, in preparing the Master Plan it was determined that there are no other current agricultural users that will be converted to recycled water. Other agriculture locations are considered interim and are now in various stages of planning for conversion to other land uses. The Strawberry Fields may remain but will include some area for future development; and the self-pick operation creates concerns by the Department of Public Health regarding public contact directly with recycled water if the strawberries were irrigated with recycled water at that location.

For community gardens to use recycled water requires any Food crops to be protected from direct contact with the recycled water and for individuals to be trained on the proper use of recycled water. The actual demand for recycled water at existing and future community garden locations in Carlsbad is low and can be accommodated as part of the incidental demand already included in the demand projections.

Comment 17: *The analysis of future demand for cooling was based on an office HVAC study performed in San Francisco. The climate of San Francisco is dramatically different from that of Carlsbad- much cooler average temperatures, fewer very warm days and less sunshine. These climate related effects on HVAC demand will only increase with temperature rise. Please clarify the basis for the conclusion that this study is applicable to Carlsbad.*

17. **RESPONSE:** The San Francisco Public Utilities Commission Study was used to determine recycled water use in comparison to potable water use in an existing cooling tower for a typical building application. The Master Plan does assume total water use in a cooling tower will increase when the supply changes from potable water due to a reduction in the number of cycles of use. Our experience with cooling towers using recycled water in Carlsbad indicates demand is relatively low per connection, but each location must be custom designed because of the size of the building, age of the building, and cooling requirements.

18. **Comment 18:** *Page 3-24. It should be noted that the OHCC community receives a special rate for potable water for their golf course from the city of Oceanside (it is counted at the lower*

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18. **cont.** *residential rate. This was done with the understanding that they would modify their landscaping to reduce water use. This was recently done- with the help of a \$ 184k grant from the city of Oceanside. Please clarify how financial issues like this for a particular user, and between cities will be addressed. In the absence of existing agreements the assumptions that such infrastructure expansion to serve another city will be paid by ratepayers seems unrealistic.*
- RESPONSE:** All financial issues will be addressed in a future Recycled Water Purchase Agreement between the Carlsbad Municipal Water District and the City of Oceanside. The assumption, based on conversations with the City of Oceanside, is that Oceanside will construct, own, and operate that portion of the Recycled Water Pipelines that are located within the City of Oceanside.
19. ***Comment 19:** Table 3-7 shows the RCB golf course is being irrigated with recycled water. The potable water plan states that this area is now being watered with well water. Why would they pay for more expensive recycled water- and why should the recycled water system be expanded to accommodate users like this that have a choice to use such water or not?*
- RESPONSE:** There are many reasons to switch to recycled water. First, it is a drought proof supply with consistent water quality. Historically the Rancho Carlsbad Mobile Home Park has experienced supply and water quality issues from the use of the single operating groundwater well. Second, the existing groundwater well is located on the Mobile Home Park Property and is operated by the Mobile Home Park and not the golf course. The cost to replace the pump/motor, upgrade control systems, and rehabilitate the old well casing in the future is expensive and the cost would need to be paid by the association. As a result it may be lower in cost to purchase recycled water than fronting capital cost for replacement of the well system. Third, the CMWD requires the use of recycled water where it is made available. The groundwater may be more beneficially used for a drinking water supply rather than landscape irrigation use only.
20. ***Comment 20:** Page 4-16 notes that water from the desal plant will have higher boron concentrations, even when mixed with other recycled water. Page 4-8 says "If possible, CMWD should attempt to ease the regional Board's limits of manganese that are applicable to recycled water." Is this the policy to lobby to reduce the standards?*
- RESPONSE:** CMWD was spending additional money in the treatment process to remove Iron and Manganese without benefit to the environment. CMWD requested that the Regional Water Quality Control Board amend the Recycled Water Discharge Permit to increase the Iron and Manganese limits. CMWD provided documentation to show that Iron and Manganese when applied to plants and turf is consumed by the plant uptake for growth; and therefore, there was no detrimental impact to the groundwater. The Regional Board agreed to increase the Iron and Manganese limits in CMWD's recycled water production in February 2012. Therefore, this is no longer a concern.

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21. **Comment 21:** *Page 4-8 also notes further effort should be made to determine the source of the manganese discharge. Please clarify if this has been done and how such actions will continue to make sure that such dischargers are identified and corrective action is taken.*

RESPONSE: The discharge order for the Carlsbad Water Recycling Facility was amended in February 2012 addressing manganese and iron, and these constituents are no longer an issue.

22. **Comment 22:** *Chapter 4 goes through evaluation of 6 alternative recycled water supply alternatives. The comparison is based on capital and O & M costs – but there is only one sentence in the entire discussion that has anything to do with potential adverse environmental impacts. There is some mention in Chapter 10 of potential costs for land acquisition that are one of the types of environmental costs that are specifically not included in the analysis. This alternatives analysis should be included in the EIR with evaluation of the environmental impacts and not just the costs.*

Response: The primary objective of the Supply Evaluation Section is to determine the cost effective recycled water supply alternatives. The costs for land acquisition for easements or environmental mitigation are not included in Unit Construction Costs. The recommended supply alternatives are presented in the Program EIR. Additional environmental review will also be performed on any specific recommended project prior to final consideration by the Board.

Sincerely,


William E. Plummer
Engineering Manager

cc: Terry Smith, Senior Engineer
David Ahles, Senior Engineer
Barbara Kennedy, Associate Planner

ATTACHMENT B

City of Carlsbad Municipal Water District Letter
dated September 19, 2012



www.carlsbadca.gov

September 19, 2012

Mr. Don Mitchell
Senior Vice President
McMillin Land Development
P.O. Box 85104
San Diego, CA 92106

**SUBJECT: City of Carlsbad Sewer Master Plan and Carlsbad Municipal Water District
Water and Recycled Water Master Plans Update, Draft Program Environmental
Impact Report, SCH 2012021006, July 2012**

Dear Mr. Mitchell:

Reference is made to your letter dated July 24, 2012 regarding subject Program EIR. The following comment was contained in your letter:

"We hereby request that Exhibit "B" and the Water Master Plan text be amended to reflect the redundant system that is proposed by the Quarry Creek project. If there is a need for the District to have an emergency intertie it should be a CIP funded by the District."

We agree with your comment and any water distribution pipeline intertie with the City of Oceanside will be designed and funded by either the Carlsbad Municipal Water District or City of Oceanside. We are hereby deleting the following words shown as a note on Exhibit B:

"(Developer Funded)"

We appreciate your review of the subject Program EIR.

Sincerely,

A handwritten signature in blue ink that reads 'William E. Plummer'. The signature is fluid and cursive, with the first name 'William' being the most prominent.

William E. Plummer
Engineering Manager

cc: Barbara Kennedy, Associate Planner
David Ahles, Senior Engineer
Terry Smith, Senior Engineer